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BY

F. M. GOADBY, Esq., D.C.L.

Let observation, with extensive view,
Survey mankind from China to Peru.
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ANNUAL REPORT.

DURING the year 1934 there was again a slight decrease in the number of members of the Society. Though the resignations were fewer than in recent years, the accession of new members was not sufficient to counterbalance them. There was a net loss of eleven annual subscriptions, of which three were on behalf of Government Departments in the Empire. This fact does not appear to be borne out by the figures in a comparative statement of accounts for the years 1933 and 1934. The reason for the difference is that there was a greater number of subscriptions received in advance during 1932 for the year 1933 than was received in 1933 for the year 1934. The extent to which the sales of the back numbers of the Journal affect the annual income of the Society is shown in the accounts for the year. The amount realized from that source was only half the sum received in 1933. Looking back over a considerable period, it was, with the exception of one year, the lowest sum received under this heading. The sales, however, show signs of being increased in the course of 1935. In this connexion the Committee would be grateful if members possessing parts of the Journal for which they no longer have use would place them at the disposal of the Secretary. It not infrequently happens that the acquisition of a new member depends on the Society's ability to supply the back numbers of the Journal.

The decrease in the amount received in donations is due to withdrawal by the Government of Grenada of their grant of £2 2*s*., and to the loss on the exchange in the grant from the Canadian Bar Association.

On the other hand, a slight increase in the size of Parts I and III of Vol. XVI of the Journal resulted in the additional expenditure of £15, as compared with 1933. This was partially offset by the fact that the existing stock of paper for covers was sufficient to meet the needs of the Journal without further purchase.

The Committee desire to place on record their appreciation of the continued support accorded by the four Inns of Court, the Law Society, the Inn of Court of Northern Ireland, the Canadian Bar Association and the Government of Fiji.

In recognition of past services to the work of the Society, the Committee had much pleasure in extending the honorary membership of the Society to Sir Robert Garran, K.C.M.G., former Solicitor-General to the Commonwealth of Australia, and to J. D. Falconbridge, Esq., K.C., Dean of the Faculty of Law, Osgoode Hall Law School, Toronto.

The Committee also desire to express their thanks to Sir H. W. Malkin, K.C.M.G., C.B., Legal Adviser to the Foreign Office ; H. Grattan Bushe, Esq., C.B., C.M.G., Legal Adviser to the Dominions Office and Colonial Office ; and S. P. Low, Esq., Solicitor to the Board of Trade, who have kindly consented to become members of the Council and the Executive Committee of the Society.

The Committee regret to record the loss which the Society has sustained through the deaths of the following members of many years' standing: Mr. J. E. de Becker, Mr. H. R. Lewis, the Hon. Mr. Justice McCardie, Professor J. E. G. de Montmorency and Mr. W. E. Willan.

The Committee take the opportunity to welcome the proposals contained in the report on Legal Education of the Committee under the chairmanship of Lord Atkin. In particular they believe that members of the Society will give their wholehearted support to the Committee's advocacy of the establishment of an Institute of Legal Research. The study of comparative legislation would necessarily form an important part of the work of such an institute. The rapid development of the means of communication between different parts of the Empire and of foreign countries, combined with the increasing effect in many spheres of the national life of this closer relationship, renders more than ever necessary a knowledge by each of the laws of the others and of their operation. The need for an extended membership of the Society becomes increasingly apparent. The Committee can claim with confidence that there never has been a period since the formation of the Society forty years ago when one of the principal requirements in the realm of law throughout the Empire would be more completely met by a fuller accomplishment of its aims and objects.

MACMILLAN, *Chairman.*

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1934. *Cr.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Subscriptions:			By Publication of *Journal*:		
Government	170 2 0		Printing vol. xv, pt. 4	127 6 0	
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Middle Temple	21 0 0		*Add* Cost of Paper	29 4 2	530 1 9
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Gray's Inn	21 0 0		,, Rent of Chambers	100 0 0	
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,, Interest on £400 War Loan		10 16 10			
		734 17 2			
,, Cash at January 1, 1934:					
In hand	1 4 6				
At bank	167 12 4	168 16 10			
,, Subscriptions in arrear paid in 1934		13 13 0	,, Cash at December 31, 1934:		
,, Subscriptions in advance paid in 1934		46 16 0	In hand	2 4 11	
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		£964 3 0			£964 3 0

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LONDON: 48, Copthall Avenue, E.C.2.
January 31, 1935.

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INTRODUCTION.

[*Contributed by* F. M. Goadby, Esq., D.C.L.]

The legislation of 1933 will, on the whole, be found to present less points of interest than that of some preceding years. Legislation designed to relieve or, at least, to distribute the incidence of the prevailing economic depression still continued, but the immediate urgency had passed—though not, unhappily, the depression also. Many indications appear of activity in the organization of industry on national or local lines. The increasing adoption of Acts of the Imperial Parliament leading to a growing uniformity of law is noticeable and suggests sometimes a certain lack of enterprise. Original or suggestive efforts at solutions of current problems occur however, though, as noticed in our introduction to the legislation of 1932, the dominant character of the " London " mind is marked.

Government.—In the sphere of constitutional legislation there is little to note. The Irish Free State maintained and emphasized its policy of virtual separation by four important enactments, of which the most dramatic were the Constitution (Removal of Oath) Act and the Constitution (Amendment No. 22) Act (p. 36), the latter being the one which deletes from the Constitution the right to petition the Privy Council for special leave to appeal. That these enactments are valid, from the Imperial point of view, has now been declared by the Judicial Committee.[1]

The Imperial Parliament made an important concession to those who advocate the separate nationality of married women (p. 2, British Nationality and Status of Aliens Act, 1933). Whatever opinion may be held as to the advisability of wider amendment of the present law, there can be no doubt that this partial amendment has removed a genuine grievance.

The Visiting Forces (British Commonwealth) Act (p. 3) implements the arrangement arrived at between the Imperial Government and the Dominions, and similar legislation was enacted in Canada (p. 45).

A further *sequela* of the Statute of Westminster is the Canadian Statute (p. 41), which gives extra-territorial operation as from the date of enactment to every Act of the Canadian Parliament which " in terms or by necessary or reasonable implication " was intended to have such operation. Our learned correspondent notes the assumption that the Statute itself is to be construed as having retroactive operation in this respect.

Within the period under review falls also the Newfoundland legislation which followed upon the recommendations of Lord Amulree's Commission (p. 75), but later developments belong to the ensuing year. The suspension of the Constitution of Malta by Ordinance on November 2, 1933

[1] *Moore and others* v. *A.G. for Irish Free State*, [1935] 51 T.L.R. 504.

(p. 178) is the subject of a note by Professor Berriedale Keith in an earlier issue of this journal.[1]

Queensland sought, by making a referendum obligatory, to give to its existing constitution a greater legal security (Constitution Act Amendment Bill, reserved for the signification of His Majesty's pleasure) (p. 89), and South Australia extended for five years the term of the existing House of Assembly (p. 90).

The Local Government Act, 1933 (p. 1), in England and Wales, with its lengthy schedule of repeals extending over a period of three hundred years, will do much to simplify the law of local government, at least for purposes of reference.

Economic Organization.—The modern association of the State with economic management or control is abundantly illustrated in many areas. In this country we note the Agricultural Marketing Act (p. 5), the Sea Fishing Industry Act (p. 4), the London Passenger Transport Act (p. 8) as striking examples of modern tendencies. Agricultural marketing was the subject of legislation in Northern Ireland (p. 22), to which the Sea Fishing Industry Act, except as to one provision, also applies (p. 25). In Ontario the Dominion Fruit Act, 1927, is given force of law "in so far as [its provisions] are within the legislative competence of the Legislature of Ontario" (p. 57), and this enactment provides, as is pointed out by our learned correspondent, an interesting illustration of a new technique in State and Federal legislative relations. Quebec regulates the production and sale of dairy products (p. 63), as also the Tourist Traffic (p. 63); Newfoundland controls dealing with codfish (p. 73); and among other illustrations of the same legislative preoccupations may be mentioned the Wheat Acquisition Act (Commonwealth of Australia) (p. 83), the regulation of sugar-cane prices (p. 85) and sale of dairy products (p. 86), and coal (p. 88) in Queensland; the reorganization of the control of the meat industry (p. 92) and control of the sale of dairy products (p. 93) in Tasmania; the Milk Board Act, 1933, of Victoria (p. 99), as also the establishment of "quotas" of dairy products in the same State (p. 104). The New Zealand legislature has also confirmed to the Governor-General the power to make regulations to control the supply of milk and cream to dairy factories. This it had sought to do by earlier legislation which, however, the Court of Appeal declared to be ineffective for the purpose (pp. 121–2).

Southern Rhodesia extends the principle of the assistance levy to the tobacco industry (p. 137). British Guiana makes provision for the regulation and control of rice factories and the manufacture of rice and for the regulation of the sale of copra (pp. 165, 166). As allied to this branch of legislative activity we may note next the copious legislation connected with the relations of labour and capital and with social conditions generally.

Industrial and Social Conditions.—Legislation special to the "depression" is represented by numerous enactments of a type now very familiar, aiming at reduction in cost of living and the easing of the situation of tenants, mortgagors and other debtors. In this country the Parliamentary Session produced an addition to the already considerable group of Rent and Mortgage Interest Restriction Acts (p. 6), and legislation with the like objects was enacted in New Zealand (p. 114), Trinidad (p. 172) and Palestine (p. 180). Efforts to lighten the burden

[1] *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. i, p. 131.

upon debtors, more particularly farmers, were made in Alberta (p. 46), Manitoba (p. 51), Ontario (p. 58), Nova Scotia (p. 54), Saskatchewan (p. 70), Queensland (p. 89), South Australia (p. 90), Victoria (p. 107), Union of South Africa (p. 129) and the Central Provinces of India (p. 146). Northern Ireland extended the duration of the existing legislation as to unemployment insurance (p. 28), and the Irish Free State widened the scope of assistance given to the unemployed (p. 38). New Zealand extended its land settlement schemes (p. 121), explained in an earlier number of this Journal,[1] and in the same connexion mention may be made of the efforts for closer settlement made in Victoria. These, as was pointed out in our last review, have been far from successful, and a remedy was sought by legislation in 1932 [2] which has now been further amended (p. 102).

Industrial legislation of a more general character is represented by enactments in Quebec aiming at control of female labour (p. 64) and limitation of working hours (p. 64). The Indian Legislature, in addition to other enactments for the protection of labour, made special provision to prohibit the pledging of labour of children (p. 140), and in Palestine certain contracts for the employment of young girls in menial service were declared to be unenforceable (p. 179).

The Ordinance as to "Native" labour was further amended in Papua, one interesting amendment prohibiting a "native" to re-engage under contract of service until he had been paid in full the wages due under the previously expired contract (p. 112). The apparently oppressive character of such a provision no doubt disappears in the light of local knowledge. Various territories legislated for the purpose of supplementing the convention relative to Forced or Compulsory Labour, *e.g.* Fiji (p. 123), Gilbert and Ellice Islands (p. 124), Solomon Islands (p. 124), Nigeria (p. 154) and Northern Borneo (p. 152). Passing on to other aspects of social life, we note that many of the provisions of the Imperial Moneylenders Act, 1927, were adopted in Northern Ireland (p. 31) and New Zealand (p. 116). In the former the fact that the applicant holds a licence for the sale of intoxicating liquor will justify a refusal of a certificate. Legislation relative to money-lending was enacted in Queensland (p. 87) and the Union of South Africa (p. 125). In connexion with the latter our correspondent notes that the legislature has succeeded in creating that *rara avis* in the legal world, a document the making of which is a criminal offence yet which remains valid as an instrument. In Bengal also legislation to control money-lending was enacted (p. 144).

Betting.—South Australia has legalized betting with bookmakers and created a Betting Control Board with power to grant licences (p. 91). In Gibraltar the totalizator is henceforth to be legal at horse and dog racing (p. 174). In Transvaal the principal law relative to dog racing [3] is amended (p. 133) by reducing the number of days on which dog races may be held and raising the age of admission from 16 to 21 whenever a totalizator is operated at the meeting.

Motors.—Roads and motors are the subject of much legislation, most of which is, however, on well-established lines and calls for no special comment. Bulb horns are prohibited to pedal cyclists in Cyprus (p. 174), where, as our learned correspondent remarks, pedestrians usually (and

[1] *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 105.
[2] *Ibid.*, p. 93.
[3] See *ibid.*, vol. x, pt. ii, p. 133.

necessarily) walk in the middle of the road and need to be able to distinguish between the terrifying motor and the (comparatively) harmless bicycle. Those who have been pedestrians in towns in Cyprus and other Near Eastern territories will have had ample experience to explain the necessity for such legislation. Ontario seeks to reduce the number of level-crossing accidents by imposing a speed limit of 20 miles per hour upon cars driven across (p. 58), and Saskatchewan (p. 70) puts pressure upon a judgment debtor who does not pay the damages occasioned by a motor vehicle by suspending his licence and the registration of every motor vehicle registered in his name until the judgment is satisfied and the person liable gives proof of his financial responsibility for future motor accidents. Trinidad (p. 173) has made provision for compulsory insurance in respect of third party risks following the Imperial Acts of 1930.

Administration of Justice.—The administration of justice was in England the concern of a number of amending statutes which Dr. Carr has, in his review, summarized for us (pp. 10 ff.). The final abolition of the grand jury is certainly the most noticeable break with the past, but few will doubt that the change was desirable. Northern Ireland, which abolished grand juries at quarter sessions (but not at assizes) in 1926,[1] has found it necessary to clarify the relevant provisions (p. 30). In Quebec the grand jury was also abolished in the year under review (p. 65).

The further limitation of juries in court actions accomplished by the Imperial Administration of Justice Act is also noteworthy, as is also the modification in Southern Rhodesia (p. 136) of the practice of arrest of a foreign defendant's person or property "to found jurisdiction," a procedure derived, we are told, from the Roman Dutch Law.

The Imperial Administration of Justice Act goes also a little way towards assimilation of proceedings to which the Crown is a party to those between subject and subject, but in the main the changes are for the benefit of the Crown (p. 11). In Northern Ireland the unlimited priority of Crown debts in bankruptcy has been at length removed (p. 29). The same Government has also modernized its law as to grants of probate and administration to trust corporations (p. 28), following English precedent, namely, s. 161 of the Supreme Court of Judicature (Consolidation) Act, 1925.

The Imperial Foreign Judgments (Reciprocal Enforcement) Act (p. 13) proclaims the abandonment in principle of the theory upon which foreign judgments have been enforced in England in the past. The substitution of registration on the lines of the Act of 1920 brings English procedure in this respect more closely into line with that familiar on the Continent, and may well facilitate agreements for reciprocity.

The Manitoba Evidence Act (p. 49) is, we are told, of special interest to the profession and deals with such varied matters as incriminating questions, oaths and judicial notice. Evidence in criminal cases has also been the subject of legislation in Cyprus (p. 176), whereby busy Government officials will in some cases be relieved from the necessity to attend personally in court. The same Cypriot law makes it clear that "a person whom the police wish to interrogate is bound to attend at the police station and that to refuse to answer questions other than those of an incriminating nature is an offence."

The Criminal Evidence Act of Northern Ireland (p. 32) amends the

[1] *Journ. Comp. Leg.*, Third Series, vol. x, pt. ii, p. 26.

Act of 1923 in the case of s. 46 of the Imperial Criminal Justice Act, 1925.

Criminal Law.—The substantive criminal law has received numerous and important additions in various territories. In Palestine the Unlawful Instigation Ordinance (p. 178) in somewhat cryptic terms makes punishable persons who instigate others to defer payment of a "notified" liability, *i.e.* a liability notified by the High Commissioner. Knowledge of local conditions would no doubt indicate the kind of liability likely to be notified. Possibly passive resisters have appeared in Palestine, and it is intended to take more drastic steps against them than were thought desirable here in the case of Dr. Clifford and his fellow-opponents of the Education Act of 1902.

Sedition and communism appear to menace the peace of Cyprus, and the threat has led not only to an amendment of the Clubs Law (p. 174) and also, one would judge, to a regulation of Boy Scouts Associations (p. 175), and to a further addition to the Criminal Code to enable the Government to deal more effectively with unlawful associations (p. 176).

In Malta a provision very properly added to the existing legislation punishes with imprisonment those who by words, gestures, etc., publicly vilify the Roman Catholic religion, and further those who impede or disturb the performance of religious functions of the Roman Catholic or other tolerated religion (p. 177). A further Ordinance (p. 178) amends the Press law, and enacts stringent regulations against the spreading of false news. In Palestine also, where, as in Cyprus, Ottoman law is being gradually superseded, the Ottoman Press laws were declared to cease to have effect upon the coming into force of a new and drastic Press Ordinance (p. 179).

Gambia has a new Criminal Code (p. 153), and in Hong Kong telling fortunes has been made a specific summary offence, the form of fortune-telling practised by temple helpers in registered Chinese temples always excepted (p. 149).

In Bengal an Act originating as a private members Bill penalizes the keeping of brothels and empowers the police to rescue minor girls from brothels (p. 144). Legislation for the suppression of houses of ill repute was also enacted in Mauritius (p. 151).

Another private members Bill which became law in North-West Frontier Province penalizes the sale of tobacco to persons under 16 and authorizes interference by certain persons when young persons are seen smoking in a public place. "The operation of this latter provision in this reputedly turbulent province," adds our correspondent, "will be watched with interest" (p. 147).

The Legal Profession.—The legal profession, or rather what is unhappily sometimes called the lower branch thereof, has been further regulated in England and in Scotland (pp. 14–15). In Cyprus a drastic change in the recruitment of the local bar is adumbrated in an Advocates law which declares that after December 31, 1936, no person shall be enrolled as an advocate who is not a barrister or solicitor of the United Kingdom (p. 175). The change is justified on the ground that it is the policy of the Government to replace the "antique" [1] Ottoman law by English law, and

[1] The antiquity of the Ottoman law may respectfully be doubted. Most of it, and in particular most of the Ottoman Codes, merely reproduce nineteenth-century French Codes. It is not so much the antiquity as the alien character of the Ottoman law which should be cited to justify its disappearance in Cyprus and Palestine.

it is therefore "an anomaly that legal degrees obtained in countries some of whom have systems of jurisprudence far removed from British principles of justice should be deemed a qualification for practising as an advocate in the Colony."

An anomaly of a different kind, and one particularly injurious to the profession, has been removed in Ashanti and the Northern Territories of the Gold Coast, where the bar against the appearance of barristers and solicitors in the courts is now removed—we trust with happy results (p. 153).

Uniform Legislation.—As remarked at the beginning of this introduction, the tendency towards Imperial uniformity of legislation is very noticeable, particularly as between the Metropolis and the Crown Colonies. Mention has already been made of some cases in which Imperial legislation has been adopted. Many others may be cited. Thus New Zealand adopts with modifications to suit local conditions the Companies Act, 1929 (p. 117), and the Poor Prisoners' Defence Act, 1930 (p. 120). In Kenya an Ordinance relative to adoption of children follows closely the provisions of the Act of 1930, and two Ordinances dealing with partnership follow the English Acts. Company law has also been brought into line with English legislation (p. 160).

New Arbitration Ordinances in Manitoba (p. 50) and in Northern Rhodesia (p. 135) follow the lines of the Imperial Arbitration Act. In Kenya (p. 159) an Ordinance regulating the trial and punishment of juvenile offenders is based on the Probation of Offenders Act, 1907, and the Children Act, 1908, with modifications. The Uganda Distress for Rent Ordinance in part follows the Law of Distress Amendment Acts, 1888 and 1895 (p. 163), and the Liquor Amendment Ordinance introduces into the Protectorate the principle of the English Tippling Act of 1751 (p. 164). Trinidad Bills of Exchange Ordinance follows verbatim the English amending Act of 1932 (p. 172), as is also the case with the Palestine (p. 178) and Kenya (p. 160) Bills of Exchange (Bankers' Drafts) Ordinances. Gibraltar has adopted almost verbatim the provision of the Administration of Estates Act, 1925, and thereby furnishes "one of the first examples of the adoption in the Colonies of the [Birkenhead Acts]" (p. 174). Our learned correspondent doubts, however, whether "the difficulties attendant upon engraftment of new ideas upon the old structure have been successfully overcome."

Uniformity of a different kind has been secured in Uganda (p. 163), where the new Trade Marks Ordinance is identical with those of Kenya and Tanganyika, and a similar tendency towards unification of the commercial legislation in East Africa is manifest in the new Patents and Designs Ordinance of Kenya (p. 160). Northern Rhodesia has adopted a Code of Criminal Procedure almost identical with that recently enacted in the East African territories (p. 134).

In the Dominion of Canada again the tendency towards unification of provincial legislation was illustrated in 1933 by the adoption in Nova Scotia of the uniform Corporation Securities Registration Act (p. 55), and in Prince Edward Island of the uniform Life Insurance Act and the model Act relating to fire insurance (p. 59).

Miscellaneous.—Scattered throughout the Review will be found references to many particular items of legislation of special interest. In British Columbia a Board of Eugenics has been created to which may be submitted cases of inmates of mental hospitals with a view to sexual sterilization (p. 48).

In the Bahamas a writ of *fieri facias* may now be levied on equitable estate (p. 167), and payment of sums due on mortgages, equitable charges or otherwise is imposed on heirs of and devisees of realty in accordance with Locke King's Acts. In Malta (p. 177) it has been declared that agreements entered into by correspondence between parties one of whom is abroad shall not bind unless the acceptance reaches the proposer within the time ordinarily required. A display of goods is to constitute a binding engagement if the price is mentioned.

Saskatchewan, in revising the Marriage Act (p. 69), now requires the would-be husband when applying for a marriage licence to produce a medical certificate to the effect that he is not suffering from chronic mental disease nor from a communicable disease. The Marriage Amendment Act of New Zealand (p. 113), which adopts the provisions of s. 1 of the Imperial Age of Marriage Act, 1929, also makes provision to enable women to act as officiating ministers for the solemnization of marriage. Presumably, at any rate since the Sex Disqualification (Removal) Act, 1919, marriages can be solemnized in England by women, *e.g.* as authorized persons under the Marriage Act, 1898. Bermuda (p. 77) has made provision for the legitimation of children by the subsequent marriage of their parents, and attempts, though we fear ineffectively, to reduce the intolerable loud-speaker nuisance, forbidding the use of radio or phonograph between midnight and 6 a.m. if persons in the vicinity are likely to be disturbed.

New Zealand made provision for minting a local coinage to replace the British coinage hitherto in use (p. 115). Hong Kong, in an Ordinance which follows in general the lines of the Criminal Appeal Act, 1907, gives the full court power to order a new trial (p. 149). In the Straits Settlements wives domiciled in the Colony have been given the power to ask for dissolution on the ground of adultery alone (p. 150), a concession already made to wives who were British subjects under the Indian and Colonial Divorce Jurisdiction Act, 1926.

The term " minor " in the Contract Enactment of the F.M.S. has been defined so as to differentiate between Moslems and others (p. 150). The Moslem attains majority at 18 according to the new provision, while others remain minors till they reach the age of 21. The Indian Majority Act was repealed in Kenya, and it was provided that " every European of or arriving at the age of 21 should be of the age of majority as fully, freely and effectively as he may or might have been by the law of England " (p. 159).

International Conventions.—In conclusion, references may be given to some of the numerous enactments of 1933 whereby effect was given locally to International Conventions. Some of these have already been noted. In addition, we may mention the legislation of the Irish Free State (p. 39), the Straits Settlements (p. 150), and of Nigeria (p. 154), implementing Geneva Labour Conventions as to merchant shipping; of the Irish Free State (p. 39), and Mauritius (p. 151), implementing the Convention as to safety of life at sea; of Gambia (p. 152), implementing the Convention of 1926 relative to motor traffic, and also giving effect to the Dangerous Drugs Convention of 1931; of Uganda (p. 162), implementing the Convention of 1910 for the Suppression of the Traffic in Women and Children; and of British Guiana (p. 165), those relating to the employment of women and children.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* CECIL T. CARR, ESQ., LL.D., *Editor of Statutes Revised, Statutory Rules and Orders,* etc.]

IN the session 23 & 24 Geo. 5 (which lasted from November 22, 1932, to November 17, 1933), there were 53 public general statutes. Several were heavy "administrative Bills" based on the advice of a Royal Commission or a departmental committee. Sometimes, where one of the official draftsmen had been attached to the advisory body, a draft Bill was appended to its report, to show what the recommendations would look like if translated into legislative language. Two notable features of the Acts of the session are the reorganization of industry and the simplification of legal procedure.

Twenty-four of the 53 Acts delegate a power to make rules, regulations or orders extending or supplementing the direct legislation of Parliament. In the last paragraph of this summary we return to the subject of this subordinate law-making.

Improvement of the Statute Book.—A not entirely disappointing progress is made with the orderly rewriting of our most frequently amended enactments. The consolidating Children and Young Persons Act (c. 12) replaces for England the Act of 1908 so heavily altered in 1932—except that the first part of the 1908 Act (infant life protection) is left untouched as belonging to the law of public health rather than to the law of juveniles. In this work of consolidation Lord Bertie of Thame fought hard for the principle that nouns of multitude should be followed either by the singular or the plural but not by the singular in one section and by the plural in the next.

The vast Local Government Act (c. 51), the greatest legislative achievement of the year if not indeed also of the century, stands to the credit of the late Lord Chelmsford's Local Government and Public Health Consolidation Committee. It brings into one statute the constitution and general functions of county councils, borough (and county borough) councils, urban and rural district councils, parish councils and parish meetings in England but naturally excludes the particular functions like education, housing and public assistance for which separate codes exist. The statute contains amendment as well as consolidation and its sponsors ran a risk in not framing separate Bills for these two purposes; but members of Parliament mercifully refrained from killing its chance of being passed by overloading it with additional amendments of their own. As the Committee reported (Cmd. 4272 of 1933), there had been several trivial and almost accidental differences between the statutes governing

the various types of local authorities. For instance, for acting as a councillor when disqualified the maximum fine was £50 in a borough and £20 in a district council; or again a schoolroom might be used by candidates at elections of rural district or parish councillors but not at those of county councillors. The new Act substitutes the maximum of sensible uniformity in all such matters. It covers *inter alia* the constitution and election of councils, their meetings, committees, officers, offices and buildings, the alteration of their areas, the acquisition of land, financial arrangements, borrowing, accounts, audit and returns, and the power to make by-laws and to promote or oppose local Bills. Among incidental changes of the law we may note the simpler substitute for the antiquated *quo warranto* information against a borough (s. 84 (6)), the abolition of the system of fining persons for non-acceptance of municipal office, and the transfer of all the surviving civil powers of vestries in urban areas in England to the council of the borough or urban district (s. 269) after the fashion set by Wales in 1914. In the matter of Parliamentary control of departmental rules and orders, the Act does not go so far as the report of the Donoughmore Committee on Ministers' Powers had suggested; it prefers to proceed on the principle that, if Parliament has no power to touch a rule or order, it is useless to clutter up the table of the House by directing that a copy be laid before Parliament. The new Act has only a limited application to London. The corresponding London law is inconveniently scattered over many public and local Acts, and the London County Council has a chance to acquire merit by a corresponding simplification.

Scotland has two excellent achievements in consolidation. One, the Solicitors (Scotland) Act (c. 21), which does not merely rewrite old law, will be mentioned again later. The other, the False Oaths (Scotland) Act (c. 20), already approved by the House of Lords in 1928, resembles the Perjury Act passed for England in 1911; it collects into one statute, with one standard of penalties, some 60 scattered provisions against false declarations and false statements.

Imperial and Constitutional.—The nationality of married women is a controversial topic on which the British Commonwealth of Nations would naturally desire uniformity among its members. All the members represented at the Hague Conference of 1930 signed the nationality convention there concluded; thus in effect they undertook to legislate so as to give effect to Arts. 8 to 10. Canada had already passed such legislation and the United Kingdom by the Nationality and Status of Aliens Act (c. 49) now does the same. The advocates of full sex equality had to be content with a half-loaf. The previous law was contained in s. 10 of the Act of 1914. In effect the wife of a British subject was deemed a British subject and the wife of an alien was deemed an alien, but there were two qualifications of this general principle. First, if during the marriage a man ceased to be a British subject, his wife could retain her British nationality by making a declaration to that effect; secondly, the Home Secretary could grant a certificate of naturalization to a British-born woman married to an alien who was the subject of a State at war with Britain. The new Act inserts a new s. 10 in the 1914 Act; the two former qualifications remain as subsections (4) and (6), and new subsections (2), (3) and (5) introduce fresh qualifications. One of these deals with the woman who was a British subject at her marriage to an alien and does not by marriage acquire his nationality; in future she will not, by reason only

of her marriage, cease to be a British subject ; she will retain her nationality instead of becoming stateless. Another deals with the British-born woman who, having married a British subject, is liable to become stateless if her husband becomes naturalized in some foreign country ; henceforth, if she does not acquire his new nationality, she will retain her own British nationality. The third deals with the alien woman whose husband acquires British nationality by the grant of a certificate of naturalization ; in accordance with the Hague Convention, she will now be able, within twelve months of the certificate, to acquire British nationality by making a declaration to that effect. The principal Act of 1914 is one of those statutes which are to be reprinted with amendments inserted in their places ; but the clause for this purpose, introduced by an amending Act of 1922 (12 & 13 Geo. 5, c. 44, s. 3) was limited to the 1922 amendments and requires to be specifically extended to any future amendments such as those effected in 1933.

The discipline of military forces within the British Commonwealth was another Imperial problem. Constitutional propriety forbids the United Kingdom Parliament to legislate for the discipline of its own troops if they happen to be in a Dominion to which the Statute of Westminster applies. Conversely it would be improper to place the troops of such a Dominion, should they happen to be in England on such occasions as His Majesty's Jubilee, under discipline in this country by virtue of United Kingdom laws passed without the assent of the Dominion. As suggested by the Conference on Dominion Legislation (Cmd. 3479 of 1930), a reciprocal arrangement is adopted. The discipline of United Kingdom forces, when visiting the Dominion, is to be governed by the existing Army Act without appeal to the Dominion courts ; and the discipline of the Dominion forces, when in the United Kingdom, will be governed by Dominion legislation which the United Kingdom courts will not challenge. The Visiting Forces (British Commonwealth) Act (c. 6) carries out the United Kingdom's side of the plan. Where Dominion forces visit the United Kingdom, their own "service courts" and "service authorities" will have exclusive jurisdiction over discipline and internal administration. Members of those courts, or witnesses appearing before them, will have the usual immunities and privileges here ; no United Kingdom court is to entertain any proceedings as to the pay, terms of service or discharge of the visiting troops. The home military and naval authorities, on request, may arrange for the arrest of a visiting soldier and for handing him over to the appropriate authorities of the visiting force. Orders in Council may regulate the relations of visiting forces with the civil power and civilians in this country. There is special provision for the apprehension of deserters and absentees (on request), for the attachment of personnel and for mutual powers of command. The new arrangement may be extended by Order in Council to colonies and mandated territories and there is a saving for the existing system of the Naval Discipline Act and for certain provisions of the Army Act and Air Force Act. Distinguished lawyers like Lord Atkin criticized the abandonment of the right of a visiting soldier, if oppressed by arbitrary punishment, to invoke *habeas corpus* in our civil courts—a right given to foreigners and even to alien criminals. But the Statute of Westminster, so far as it applies to a particular Dominion, has made the new law necessary, and the aggrieved visiting soldier must now have recourse to the courts of his own country.

The relations between the Royal Air Force of the United Kingdom and the Indian Air Force are dealt with by a clause in the Army and Air Force (Annual) Act (c. 11), which is unusually brief this year. There are two other short statutes about India. One (c. 23) amends s. 72B of the Government of India Act so as to enable the Governors of Provinces to extend the duration of their Legislative Councils—a step intended to avoid a general election pending the emergence of new institutions under the reform scheme. The other (c. 7) continues the " abatement " in the pay of certain members of Indian services whose statutory protection was not proof against statutory amendment. The cut is reduced from 10 to 5 per cent.

International Relations and Arrangements.—The Russian Goods (Import Prohibition) Act (c. 10) was a lever to secure fair treatment by Soviet Russia of Mr. Monkhouse and Mr. Thornton, two skilled engineers employed by an English company to erect and supervise electrical plant in Russia. The prohibition could be switched on or off by Royal Proclamation.[1]

Fisheries.—To stimulate employment among fishermen, and in this connexion to raise the price of fish at the port to a more remunerative level, as well as to keep undersized fish off the market, the Sea-Fishing Industry Act (c. 45) authorizes the making of departmental orders for the following four purposes: (*a*) regulation of the landing of foreign-caught sea-fish, (*b*) prohibition of landing sea-fish caught during certain seasons in certain waters whence, by reason of the time and distance of transporting the catch, the fish are of poor quality and low price when brought to market, (*c*) regulation of the mesh of nets used by registered British fishing-boats, and (*d*) regulation of the size of fish sold in Great Britain by prescribing minimum sizes. Because it was not desired to restrict foreign competition in food-stuffs unless the home industry was efficiently conducted, no order is to be made for purpose (*a*) unless orders are in force for purposes (*b*), (*c*) and (*d*). Other restrictions as to orders for purpose (*a*) (somewhat awkwardly distributed between ss. 1 and 8) are the stipulation that the order shall lapse after 28 days unless previously approved by resolutions of both Houses of Parliament, and a three-years' time-limit. After the Act has been in force for three years no such order is to be made unless the appropriate departments are satisfied that " there have been, or are being, taken all such steps (if any) as are practicable and necessary for the efficient reorganization of that branch of the sea-fishing industry of the United Kingdom, or of that branch of the fish-curing industry of the United Kingdom, as the case may be, in whose interest the order is proposed to be made." Any such order in force at the end of the three-year period will then automatically cease to have effect unless continued by a resolution of both Houses. The consumer is not entirely ignored; the Board of Trade is enjoined to have regard to his interests in deciding whether or not to make such an order and in settling its terms. The Board must also have regard to the effect which the regulation of foreign-caught sea-fish may have upon commercial relations with other countries. Lastly, the economic condition of the British fishing industry is to be examined by a Sea-fish Commission which will report to the appropriate Ministers upon the catching, landing, storage, treatment, distribution or sale of sea-fish and upon any necessary reorganization of interests concerned. A newly established Market Supply Committee is

[1] A proclamation of April 19, prohibiting certain imports, was revoked on July 1.

to advise Ministers on the making and operation of orders and, if requested, on other matters to be specified. " Sea-fish " is defined, and there is a clause making any director, manager, secretary or other officer criminally liable where an offence against the Act by a body corporate is proved to have been committed with his consent or approval. The time may come when this type of clause, nowadays freely inserted in Acts which create *ad hoc* offences, is considered ripe for general enactment as part of the criminal law.

A brief Trout (Scotland) Act (c. 35) alters the dates of close time for catching trout and for exposing them for sale.

Agriculture.—Post-war Parliamentary action to help farmers has included the Act of 1928 for grading and marking produce and Dr. Addison's Agricultural Marketing Act of 1931. The latter is progressively amended by its former critics in the session under review (c. 31). The Board of Trade, in consultation with the Ministries concerned, may now make orders regulating agricultural imports, provided that (i) there is in operation or in preparation an agricultural marketing scheme for those particular products, (ii) limitation of imports is necessary for the effective organization and development of the branch of agriculture concerned, and (iii) the Board of Trade takes into account the interests of consumers and the effect upon commercial relations with other countries. There is also power to make orders regulating the sales of home products. These two classes of statutory order will lapse after 28 days unless approved by resolution of Parliament. A Market Supply Committee (already mentioned in connexion with the sea-fishing industry) is established to advise the departments and to report on the working of the orders. The Board of Trade is empowered to obtain information about stocks. Part II of the Act deals with development schemes for organizing the production of secondary products such as bacon. The schemes will provide for development boards with powers not only to make levies to cover the cost of research, education, advertising, grading, packing and storage, but also to license producers, compensate persons who are refused a producer's licence, and, where " necessary for the purpose of preventing, eliminating or reducing inefficient or excessive production of the secondary product," to buy up and dispose of premises used for producing that product in the area concerned. The 1931 Act is extended in respect of compensation, the effect of schemes on contracts and the pooling (and distribution) of proceeds of sales of regulated products. Here again there is an *ad hoc* clause as to the criminal liability of directors, managers and other officials where corporate bodies commit offences against the Acts of 1931 or 1933 with their consent or approval. Finally there is an isolated requirement that the sale of eggs in shell must in future be by weight or under " grade designation " (under the Grading and Marking Act of 1928) unless the contract is for fewer than twenty-five eggs or for eggs produced, or to be delivered, outside Great Britain.

Education.—To carry out a small economy recommended by the Ray Committee, the Education (Necessity of Schools) Act (c. 29) repeals a previous statutory condition that a public elementary school is not to be closed so long as thirty or more children attend it. The Teachers (Superannuation) Act (c. 22) removes for schoolmasters employed abroad in countries like Egypt a disadvantage which they suffered in aggregating their periods of service oversea for reckoning pension.

Housing.—Though the suggested expedient of a national housing

corporation is rejected, efforts are continued to enlarge the " pool " of low-rented dwellings of moderate size. One method is to keep rents down by reducing the cost of building. On the assumption that housing subsidies and building costs go up and down together, and that private enterprise can still play its part unaided, the Housing (Financial Provisions) Act (c. 15) withdraws the subsidy in England. It also embodies an agreement with the building societies (bodies which may be said to borrow short-term money to lend on long-term loans) to extend the amount of their loans from 70 per cent. to 90 per cent. on condition that the extra 20 per cent. is guaranteed by the Government and the local authorities. This agreement is translated into statutory language with a proviso which gives the Minister of Health some control of the type of house, the density of the building, and the provision of baths. A similar Act for Scotland (c. 16) does not abolish the " Wheatley " subsidy entirely (as in England) but reduces it from £9 to £3, retaining it to stimulate the building of houses to be let at rents not exceeding 6*s.* (or, with departmental consent, 6*s.* 6*d.*) per week. The subsidy to private builders under the 1923 Act, which was dropped for England in 1929, is now abolished for Scotland also.

The effort to keep down rents by statute adds yet another to the series of Rent and Mortgage Interest Restrictions Acts (c. 32). Based on the report of a committee presided over by Lord Marley (Cmd. 3911 of 1931), the new Act contemplates decontrol by stages. The Restriction Acts are to continue till the midsummer of 1938 " and no longer " ; and the prospective arrangements for reference committees, etc., which under Part II of the 1923 Act were transitionally to follow upon the hypothetical expiry of the existing temporary restrictions, are repealed. Meanwhile, decontrol is applied as from Michaelmas, 1933, to houses sometimes described as of " A " class, namely those rented or rated at or over £45 in London, £35 elsewhere in England and £45 in Scotland. Unless there is a long-term lease, the landlord will be able to get possession of this type of house on a month's notice ; the tenant will be entitled to compensation for goodwill on the lines of the Landlord and Tenant Act of 1927. Houses in an intermediate " B " class, namely, those rated at or over £20 in London, £26 10*s.* in Scotland and £13 elsewhere, are subject to gradual decontrol under the existing law as slightly amended. The " C " class of houses, below these limits, remain controlled till the restrictions run off in 1938, if indeed they are then allowed to go. Local authorities are to keep a register of certain types of house so that the fact of control or decontrol will be readily ascertained. Other provisions of the new Act are the decontrol of all public-house property, an extended definition of " suitable alternative accommodation " and an enlargement of the grounds on which a landlord may ask the court to give him possession, *e.g.* if the tenant has overcrowded the house to an unhealthy or dangerous degree or has sub-let at an extortionate charge. The tenant may be fined £100 if he deliberately overcharges a sub-tenant after the court has apportioned the rent. There is a new clause as to permitted increase of rent in respect of improvements and structural alterations and a new power for the court to rectify rent-books. Local authorities may publish information as to the rights and duties of both landlords and tenants ; they may also take proceedings to enforce the law ; and they must issue certificates where in their opinion a house is not in a reasonable state of repair. The Minister of Health may by regulations require pre-

scribed information to be inserted in rent-books and similar documents. Last comes the usual clause necessary for adapting the Act to the law of Scotland, where, by the way, the compensation for goodwill under the 1927 Act does not apply. So much for a fresh page in an inevitably complicated chapter of legislation responsible for many sterile pages of judicial interpretation in the law reports.

Transport.—Attempting to adjust the competition for goods traffic between the road carriers and the railways, the Road and Rail Traffic Act (c. 53) applies to the motor-lorry on the road the system of licensing and regulation which Part IV of the Road Traffic Act of 1930 applied to the passenger motor-coach. In future every " goods vehicle " (*i.e.* every motor vehicle constructed or adapted for the carriage of goods) used (*a*) for hire or reward, or (*b*) for any trade or business, must be licensed. There are exemptions for certain agricultural vehicles, tramcars, public service passenger vehicles carrying parcels, and vehicles used for funerals or for police, fire brigade, ambulance or various local purposes. The new Act recognizes three kinds of carriers: " private carriers " who use the authorized vehicles only for their own trade or business, " public carriers " who use them for hire or reward or in connexion with the business of goods transport, and " limited carriers " who use them either for their own trade or business or else for hire or reward. The public carrier requires an " A " licence, lasting for two years, the limited carrier a " B " licence lasting one year, and the private carrier a " C " licence lasting three years. The licences are subject to the following conditions: the vehicles must be kept in a fit and serviceable state; statutory restrictions as to loading, limits of speed and weight and working hours of drivers must be observed; and records must be kept (and preserved for six months) of the times worked, the journeys made and the maximum loads carried. Official examiners will investigate the condition of vehicles; they will have a right to enter and inspect premises and to look at documents, and they can prohibit the use of a defective vehicle. Appeals in connexion with licensing will go to a new tribunal of three members of whom one (the chairman) must have legal experience; it will have power to award reasonable costs.

Part II of the Road and Rail Traffic Act deals with railways. The Railways Act of 1921 had arranged for " standard rates " per ton per mile of goods traffic, and recently in the Robinson case [1] the Court of Appeal held that a railway must not allow an exceptional rate to the traffic of a particular firm in a particular area regardless of distance. The new Act allows the railway company and the trader to fix " agreed charges " with the approval of the Railway Rates Commission and subject to a right of objection from any representative body of traders or from any individual trader who believes his business will suffer. Coastwise shipping carriers may also complain of agreed charges or exceptional rates if deemed unfair. There are other minor changes (for instance in the reporting of accidents) intended to relax statutory requirements which bear too heavily on railways. Part III of the Act sets up a Transport Advisory Council with special representation for local authorities, users of mechanically propelled vehicles and horse-drawn vehicles, pedestrians and pedal cyclists, railways, canals, docks, coastwise shipping, " labour " and " trading interests (including agriculture)." In framing the Act the competitive interests of the railways and road hauliers were more easily adjusted

[1] *In re G.W.R. Co.*, [1933] 2 K.B. 391.

because reasonable agreement had been reached between them at a conference presided over by Sir Arthur Salter.

A scheme for the co-ordination of passenger transport facilities in the London Traffic Area was recommended to the Ministry of Transport by the London and Home Counties Traffic Advisory Committee set up in 1924 by the London Traffic Act. Out of this scheme grew the London Passenger Transport Act, 1933 (c. 14), which brings under a single ownership and control the various railways, tramways, omnibuses and motor-coaches operating in London. For this purpose it creates a new public authority, the London Passenger Transport Board, on the lines of the Metropolitan Water Board and the Port of London Authority—a compromise between socialism and private enterprise. The new Board consists of a chairman and six members, experts in transport, industry, commerce, finance or the conduct of public affairs, appointed not by the Minister (who might be swayed, it was said, by political influences), but by an independent body of " Appointing Trustees " including the chairman of the London County Council, the presidents of the Law Society and the Institute of Chartered Accountants and the chairman of the Committee of London Clearing Bankers. The general duty of the new Board is to co-ordinate London transport and, while avoiding unnecessary and wasteful competition, to extend and improve the facilities. To this Board the existing undertakings are transferred on terms to be fixed (where not already agreed) by an arbitration tribunal of three members, respectively experienced in the law, business and finance ; from the tribunal's award there is an appeal on questions of law by special case stated to the Court of Appeal. Certain rules are laid down for determining the compensation which must be " fair and equitable as between the several owners." The undertakings thus acquired are scheduled to the Act—the Underground and the Metropolitan Railways, all the local authorities' tramways in the area and all regular short-stage omnibuses operating therein, but not the suburban services of main-line railways or the long-distance coach services. Complicated financial provisions arrange for payment in certain classes of London Transport Stock or cash. S. 31 and schedule 10 provide, by means of a Standing Joint Committee, for pooling the receipts of the Board and of the suburban main-line traffic. The charging powers and the fares are governed by a group of sections which allow fares to be revised, on the application of a local authority or the Board itself, by the Railway Rates Tribunal. Local authorities may make representations to the Railway Rates Tribunal about any actual or prospective withdrawal or reduction of services and facilities or about the need of new or improved services. The powers of the Board include the abandonment of tramways and the prospective utilization of the Thames for services of passenger vessels ; but it must neither manufacture rolling stock (except for experiment and research) nor carry on the business of a garage nor sell fuel or spare parts.

The area with which the Board is concerned is obscurely stated in the Act by reference to copies of a signed map deposited with the Ministry and with Parliament. The new " London Passenger Transport Area " will in effect go a few miles beyond the " London Traffic Area " of the Act of 1924 at the north and south sides and will be inside it on the east. The Board's exclusive right to carry passengers in stage and express carriages is limited by s. 16 to a " Special Area " which means so much of the London Passenger Transport Area as lies within the London Traffic

Area. Part III of the Act deals with finance—borrowing, reserve funds, accounts, etc. Part IV amends the Road Traffic Act, 1930, in respect of the Metropolitan Traffic Area (yet another of London's areas); Part V amends the London Traffic Act, 1924, particularly with reference to the Advisory Committee, the restriction of passenger vehicles in certain streets and the control of "vehicular and other traffic." The rest of the Act deals with the employees' conditions of labour, questions of staff and superannuation and the inevitably elaborate transitional arrangements. The statute, which began life as a "hybrid Bill," has the look of a Local Act; though a public general statute, it has since been amended by Local Acts.

Trade and Commerce.—As long ago as 1927 a Board of Trade Committee, presided over by Mr. Justice Clauson, recommended improvements in the statutory control of insurance companies.[1] The committee produced a draft Bill which reproduced the Assurance Companies Act of 1908 with various proposed amendments. Something less ambitious was passed into law as the Assurance Companies (Winding Up) Act of 1933 (c. 9). Though the companies have always been obliged to deposit funds and to furnish annual accounts to the Board of Trade, the Board has previously had no power to intervene if the accounts indicated approaching insolvency. The new Act enables the Board to present a petition (with leave of the court) for winding up a company on the ground that it is unable to pay its debts. Fresh power is given to obtain the fullest and latest details of the financial position. If the Board has reason to believe a company is insolvent, it may call for explanations, information, accounts, balance-sheets, abstracts and statements, and may require them to be signed by the directors and officers and to be certified as correct by an approved auditor or actuary. If the company does not comply, the Board may obtain an order from the court; on default the court may direct the winding-up of the company or may set in motion an investigation by inspectors. These new powers were the more urgently required because of the recent development of compulsory insurance of motorists against third-party risks.

A short Cotton Industry Act (c. 30) prolongs a temporary statute of 1923 which, for the benefit of the Empire Cotton Growing Corporation, made a small levy (now further reduced) on cotton spinners in respect of their purchases of raw cotton.

Finance and Taxation.—The annual Finance Act (c. 19) reduces the beer duty and, with the idea of assisting processes for extracting oil from coal, puts a customs duty of 1*d.* per gallon on heavy hydrocarbon oils. As usual, various other duties are continued or altered and the machinery of the Import Duties Act receives fresh adjustment. Income-tax and surtax remain at the same rate, but the payer of income-tax, who in the crisis of 1931 was made to pay three-quarters of his tax in the January instalment and the remainder in July, henceforth has a happier Christmas since he will now pay (as before 1931) in two equal instalments. Co-operative societies, accused of occupying a privileged position as payers or non-payers of income-tax, are dealt with in sections technically successful but probably conveying little meaning to the societies' members; by s. 31 (3) the societies' "divi." is declared to be immune. Post Office finance is rearranged in accordance with the report of Lord Bridgeman's committee. From the Post Office net surplus for the previous financial

[1] Cmd. 2820 of 1927.

year a sum of eleven millions is taken for a Post Office Fund which the Postmaster-General (with Treasury concurrence) may devote to the development of posts, telegraphs and telephones. Among other clauses the *ad valorem* stamp duty on the capital statements of new companies is reduced from £1 to 10*s.* with the idea of helping commerce.

Other financial legislation includes the Exchange Equalization Account Act (c. 18), which increases to 350 millions the aggregate amount issuable; the Isle of Man (Customs) Act (c. 40), arranging for duties generally corresponding with those in force in the United Kingdom; the usual Appropriation Act (c. 34) and Consolidated Fund Acts (cc. 1 and 3); and an Austrian Loan Guarantee Act (c. 5).

Local Government.—When agricultural land, railways and certain industries were derated, Parliament made grants to the local authorities to replace the loss of rates. The amounts were calculated by a formula which took into account the special needs of necessitous areas and which requires the periodical direction of Parliament. The Local Government (General Exchequer Contributions) Act (c. 8) gives this direction for the "second fixed grant period" of four years.

The audit of municipal accounts in England could take three forms: audit by the century-old system of elective and nominated borough auditors (who needed no professional qualification and had no power of surcharge or disallowance), audit by district auditor (an independent official who must disallow all items of illegal expenditure and surcharge the persons responsible for the illegality, sending in his report to the Minister of Health), and audit by professional accountants. The Municipal Corporations (Audit) Act (c. 28) enables a borough to adopt the second or the third method in place of the first by formal resolution without the expense of promoting a Local Bill for the purpose. This Act is repealed and reproduced by the consolidating Local Government Act already mentioned.

The Local Government and other Officers' Superannuation (Temporary Provisions) Act (c. 43) validates an understanding between local authorities and their officers whereby cuts in pay imposed during the crisis of 1931 may be disregarded in computing pension where the rate of pension depends on the rate of pay. The Act avoids any awkwardness over contracting out of statutory obligations.[1]

The Administration of Justice.—The strong committee which the Lord Chancellor had invited to advise him on the quicker and cheaper dispatch of business in the English courts presented an interim report (Cmd. 4265) in 1933. A revolutionary proposal to shorten the Long Vacation could be effected by a mere Order in Council.[2] Other notable recommendations took shape in the Administration of Justice (Miscellaneous Provisions) Act (c. 36). Grand juries, suspended during the war, now disappear for good, except that the grand jury of the County of London and County of Middlesex remains to take part (as in Governor Eyre's case in 1868) in those rare trials for oversea offences which by certain statutes must take place at Bar in the King's Bench. The ancient function of the grand jury is to make sure that nobody is tried on a criminal charge at assizes or quarter sessions unless there is a *prima facie* case against him; this safeguard is hardly needed now in an age when a bench of magistrates has already made exactly the same investigation. The change undermines the old common-law system by which any private person could

[1] See *Salford Guardians* v. *Dewhurst*, [1926] A.C. 619.
[2] See S.R. & O. 1933 (No. 490) p. 1802.

prefer a "voluntary" bill of indictment before a grand jury against another person without previous magisterial inquiry. The Vexatious Indictments Act, 1859, whereby such private persons could be bound over to prosecute, now disappears, but voluntary Bills survive subject to the control of the judge at trial, and he can still, as before, commit a witness directly for trial for perjury. The marginal note against this provision ("procedure for indictment of offenders") seems archaically to assume that every accused person is an offender.

The new Act goes on to expedite and simplify the determination of questions of liability for death duties by summary application in the High Court. Subject to rules of court any debt due to the Crown may be recovered by proceedings on writ of summons in the High Court, without prejudice to the ancient machinery of the information. The Crown too may now take proceedings in a county court where it was formerly deemed unable to appear for the dubious reason that the modern system of county courts was inaugurated long after the method of Crown proceedings had been crystallized. Thus a few procedural provisions are borrowed from the draft Crown Proceedings Bill which an advisory committee had recommended in 1927 (Cmd. 2842). They happen to help the Crown against the subject, and the other proposals which would have helped the subject to sue the Crown are left still unenacted; but the new statute does at any rate declare that in proceedings by or against the Crown, the award of costs shall be in the discretion of the court or arbitrator just as they are in proceedings by one subject against another.

A further reform is the limitation of juries in civil actions in the High Court. Jury trials, largely consisting of claims for damages against supposedly negligent drivers of motor vehicles, take up far more time than trials by a judge alone. In future juries will try civil actions where fraud is alleged or where damages are claimed for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage—these being the cases where plaintiff and defendant may be most anxious for the opinion of twelve of their fellow-countrymen. Even here a jury will be dispensed with if prolonged examination of documents or accounts or scientific or local investigation makes its presence inconvenient. Save as aforesaid, the court or a judge will have a general discretion to order trial either with or without a jury. These provisions, needless to say, relate to civil, not to criminal, trials. Lastly, the new Act makes a small change in the department of the Master in Lunacy (nowadays known as the Management and Administration Department) where the property of mental patients is managed under official safeguards; increase of work had caused arrears and power is given to delegate the duties.

Another legal reform in England is based on the report of a departmental committee upon the system of appeals from decisions of courts of summary jurisdiction. Under s. 31 of the Summary Jurisdiction Act of 1879 a man could not appeal from the magistrates to quarter sessions without either binding himself to proceed and to be responsible for the costs which might be awarded against him or depositing a sum of money which in practice was said to be fixed at £50. This was almost a denial of justice to a poor man. A new Summary Jurisdiction (Appeals) Act (c. 38) substitutes for s. 31 a less onerous undertaking by the appellant to proceed with his appeal; he is to be bound in such sum as is reasonable in relation to his means and there is no obligation as to the prospective

costs. Further, the Act gives a poor appellant free legal aid on a certificate granted by the magistrates ; if they refuse, he may be given a certificate by the court to which he is appealing. Hitherto the justices assembled to hear appeals at quarter sessions have been a somewhat haphazard and voluminous body. In future the duties will be delegated to an Appeal Committee consisting " so far as practicable " of those justices who have " special qualification for the hearing of appeals." The Committee, when acting as a court, will be formed of not less than three and not more than twelve members. Some critics would like to see this smaller and more expert tribunal made smaller and more expert still. There are special provisions for London.

Important changes are made in Scottish legal procedure by the Administration of Justice (Scotland) Act (c. 41), following the recommendations of a Royal Commission which reported in 1927 (Cmd. 2801). The queer old practice of making trial of the qualifications of a person nominated and appointed to be a judge of the Court of Session is abolished.[1] The Act provides for an additional division of the Inner House, abolishes the Bill Chamber, and makes fresh arrangements for the sittings of the judges (with power for them to extend a session as required) and for the work of the vacation judge. The right of parties to choose a specified Lord Ordinary or Division for the hearing of their causes or appeals is brought to an end. The form of proceedings is simplified and facilities are given for summary trial. A Rules Council is established by s. 18 on the lines of the Rule Committee of the Supreme Court in England ; it may frame rules regarding any matters about which Acts of Sederunt may be made ; it will submit these rules to the Court, which, if it approves, will embody them (with or without amendment) in an Act of Sederunt. S. 16 gives a category of all the matters of procedure and practice which the Court may regulate by Act of Sederunt—forms, pleadings, production and recovery of documents, admission of affidavits, payment into court, solicitors' fees, the summoning of assessors, and so on. As in the similar provision for rules of court in England, an Act of Sederunt may " modify, amend or repeal any enactments, including enactments contained in this Act," relating to procedure. Another Rules Council is established for the sheriff court. Its suggested rules of procedure will similarly be embodied in Acts of Sederunt, which again may modify, amend or repeal enactments. This power to repeal statutes by delegated legislature should frighten nobody. If it is proper to deal with procedure by statutory rule instead of (as in time past) by statute, the rules should sweep as well as garnish ; unfortunately Rule Committees, though they possess the knowledge and the authority, foster uncertainty of the law because they are slow to use their chances to clear away the statutes which their rules replace.[2] The two new Rules Councils for Scotland are to include representatives of the bench, the advocates and the solicitors. The Lord President of the Court of Session is an ex-officio member of both Councils.

The new Act deals also with criminal trials in Scotland. If a juror dies or, through illness or any other disability, is unfit to continue serving,

[1] See 10 Geo. 1, c. 19, passed after the Lords of Session had rejected a prospective colleague nominated by the King.

[2] The resultant rules of court (S.R. & O. 1935 (No. 772), II, p. 257) replace, but omit to repeal, parts of statutes. Compare 15 & 16 Geo. 5, c. 49, s. 99 (1) (*f*) and schedule 1, wherein only one of the repealable enactments has yet been eliminated.

the court will have a discretion (on application made by either side) to continue the trial before the remaining jurors if the number does not fall below twelve; the jurors can then return a valid verdict unanimously or by a majority, but there can be no majority verdict of guilty unless eight jurors are in favour of such verdict. Both sides in criminal trials on indictment are now enabled to admit documents, thus saving formal proof; and copies can by agreement be accepted as equivalent to the originals; but the accused's admission or agreement cannot be accepted if he has no legal assistance in his defence. Sundry other provisions of the Act include the right of appointment of officers of the High Court of Justiciary and the Court of Session and superannuation arrangements. There is power to reorganize the existing system of fifteen territorial sheriffs and the sheriff of Chancery. As vacancies occur in the office of sheriff the Secretary of State may form new sheriffdoms by uniting two or more counties or parts of counties; his orders for this purpose will not take effect till both Houses of Parliament have approved them by resolution.

Forensic Reciprocity.—The Foreign Judgments (Reciprocal Enforcement) Act (c. 13) follows the draft Bill appended to the report of another excellent committee appointed by the Lord Chancellor.[1] Previously if a plaintiff obtained judgment in England against a defendant who had assets abroad but not in England, the judgment had to be enforced in foreign courts where an English judgment was not in effect recognized as conclusive; the result was that the plaintiff, successful in England, often had to fight his case afresh on its merits abroad. In the converse position English courts have, in the main, accepted foreign judgments as conclusive. There was thus a clear case for reasonable reciprocity; but foreigners were puzzled by two features of the English law. First, a foreign judgment was not enforced as such in England; an action was brought on it and an English judgment was obtained—a roundabout method unfamiliar to strangers. Secondly, the attitude of English courts to foreign judgments was based on case-law, not on statute. The new Act removes these obstacles to standardization. Part I (which can be applied by Order in Council to any foreign country where reciprocity is assured) enables the registration of foreign judgments in the High Court (or, in Scotland, the Court of Session), subject to proof of matters prescribed by rules of court. A registered judgment then takes effect (unless set aside as presently explained) as a judgment of the registering court; execution follows and the sum carries interest. Foreign judgments which can be registered are not to be enforced in any other way; thus the common-law alternative is excluded. Registration *must* be set aside if it is shown, *inter alia*, that the court of the foreign country had no jurisdiction or that the debtor had no notice of the proceedings, or for fraud or where enforcement would be contrary to public policy. It *may* be set aside on evidence that the dispute in the original court had, before the date of the judgment, been the subject of a final and conclusive judgment by a court having jurisdiction to decide it. There is power to apply Part I of the Act to British dominions, protectorates or mandated territories by Order in Council; where this happens, the old arrangements for reciprocal enforcement of judgments under the Administration of Justice Act of 1920 will be superseded. Part II of the new Act gives

[1] Cmd. 4213 of 1932. See also the earlier report of the Sumner Committee, Cmd. 251 of 1919.

statutory effect to the principles whereby foreign judgments (whether registered or not) are regarded as conclusive. It also provides for the issue of certified copies of judgments obtained in the United Kingdom for sums other than sums payable for taxes or penalties. As no certificate is to be issued if execution has been stayed, the issue of the copy can be taken as evidence that the British judgment was, at the date of the copy, " capable of being executed."

Students of legislative technique will note that the Act avoids the inconvenient method of scheduling the text of an international convention. Such conventions are sometimes framed in language which is awkward for United Kingdom courts to interpret and apply.

The advantages of reciprocity are seen also in the Evidence (Foreign, Dominion and Colonial Documents) Act (c. 4), which simplifies the admission in United Kingdom courts of entries in the public registers of another country. " Country " here means not only a foreign country, but also a Dominion, British colony or protectorate or any mandated territory, as well as the Isle of Man and the Channel Islands. If the country recognizes the public registers of the United Kingdom as authentic and allows proof of their contents by certificates signed by the proper public officers in the United Kingdom, then His Majesty may by Order in Council make reciprocal arrangements. It thus becomes possible to dispense with the cumbrous process of " legalization " of documents. The Order in Council may provide *inter alia* that matters recorded in the country's public register shall, until the contrary is proved, be deemed regularly recorded, that official copies of entries in such register shall be evidence that the register contains such an entry and that official certificates shall be evidence of the facts certified. A second section authorizes the recognition in the United Kingdom of certificates of the births and deaths of British subjects born or dying abroad where the information has been registered by an officer of the British diplomatic or consular service. This will help English banks and similar bodies the more easily to obtain, and the more safely to act upon, information which they often require.

The Legal Profession.—The solicitor's profession in England, like every other honourable calling, has its occasional black sheep who abuse their clients' confidence and misappropriate their money. A new Solicitors Act (c. 24) offers safeguards. The Law Society (the official organization of the solicitors though not every solicitor is obliged to belong to it) is authorized to make rules for the profession in respect of (*a*) the opening and keeping of accounts at banks for clients' moneys, (*b*) the keeping of accounts containing particulars of moneys received, held or paid for or on account of clients, and (*c*) the means by which the Council of the Law Society may take action to ascertain whether or not the rules are being complied with. The Society's rules may also regulate professional practice, conduct and discipline in any other respects. All rules require the approval of the Master of the Rolls. Breach of the rules is punishable on complaint to the solicitors' disciplinary committee like other forms of professional misconduct. Official solicitors and the legal officers of local authorities are exempted, and the banks are protected from liability and from the duty to inquire into the nature of solicitors' banking accounts " other than an account kept by a solicitor as trustee for a specified beneficiary."

Mention has already been made of the Solicitors (Scotland) Act (c. 21), part consolidation and part amendment. Its provisions for a register of

practitioners in Scotland, and for the enforcement of professional discipline, resemble those already familiar in the case of solicitors in England. But whereas in England there is one Law Society (including most members of the profession) able to undertake these functions, in Scotland there are several societies, some of ancient standing, and the examination, admission and discipline of solicitors have been in the hands of the Court of Session. The new Act creates a General Council for the solicitors' profession in Scotland, and gives it control of apprenticeship and education. The register, kept by an officer of the Court, will be kept by him as an officer of the Council. A small disciplinary committee is to be appointed; it will investigate complaints of professional misconduct, the person affected being given reasonable opportunity of making his defence. The committee has powers of censure or fine (up to £100); in graver cases the power of striking off the roll or suspension is to be exercised by the Court on report or petition from the committee or otherwise.

Pharmacy and Poisons.—Professional registration and discipline are applied afresh in another direction. The Pharmaceutical Society of Great Britain has, by its charter, by statute and by its own by-laws, largely controlled the practice of pharmacy; it has also had statutory authority to propose alterations in the official list of poisons scheduled to the Act of 1908 and to propose regulations for the keeping, dispensing and selling of poisons, and it could sue for penalties for breach of those regulations. The Privy Council has been the central authority both for pharmacy and poisons. The law on both these subjects was somewhat confusedly contained in a group of Poisons and Pharmacy Acts which was now ripe for reform. A departmental committee advocated changes; to its report (Cmd. 3512 of 1930) was appended a skilfully drafted Bill which grew into the Pharmacy and Poisons Act, 1933 (c. 25). The Privy Council remains in charge of pharmacy, but surrenders poisons to the Home Office. The Pharmaceutical Society is made more representative and is given stronger disciplinary powers. Membership is no longer by election; every registered pharmacist will by virtue of registration be a member. The Council of the Society will keep the register. A Statutory Committee of the Society (six members, including a chairman "having practical legal experience" who is appointed by the Privy Council) will act as a disciplinary tribunal. Suppose that a registered pharmacist (or a person employed in his business) has been convicted of such criminal offence, or been guilty of such misconduct, as renders him (or in the case of the employee would, if he were a registered pharmacist, render him) in the Committee's opinion unfit to be on the register; the Committee may, after inquiry into the case, direct the removal of the pharmacist's name from the register, subject to a right of appeal to the High Court. A not entirely new section restricts the use of the titles "chemist and druggist," "druggist" or "pharmacist" to registered pharmaceutical chemists; the title "chemist" is similarly restricted only "in connexion with the sale of goods by retail," these latter words being inserted to protect members of the Institute of Chemistry. A group of new sections sets out the conditions to be fulfilled by a registered pharmacist in order to become an "authorized seller of poisons"; he or some other registered pharmacist must be in personal control in each set of premises where the business is carried on, and the name and certificate of registration of the person in control must be conspicuously exhibited on the

premises. There are special conditions for bodies corporate in this respect, and for the continuance of a registered pharmacist's business by his representatives on his death, insolvency or insanity. Every authorized seller of poisons must register the premises where he carries on the retail sale of drugs, and must furnish the registrar with a list of his shops and of the pharmacists in charge. These provisions in the first half of the Act the Pharmaceutical Society has a duty to enforce.

The second half deals with poisons. A Poisons Board of sixteen members, severally nominated by the Home Office, Ministry of Health and other departments and by the Royal Colleges of Physicians, the General Medical Council and other bodies, is to prepare and submit for the Home Secretary's approval a Poisons List. The Home Secretary may confirm the list with or without modifications. The List will be in two parts. Part I will consist of poisons which only an " authorized seller of poisons " may sell ; Part II will consist of poisons which may be sold not only by an " authorized seller of poisons " but also by anyone whose name is on a " local authority's list " for the purpose. Part II poisons will be those which are in common use for purposes other than the treatment of human ailments " and which it is reasonably necessary to include in the said Part II if the public are to have adequate facilities for obtaining them " ; thus the Part II poisons represent the " poisonous substances " like sheep-dips and weed-killers which secured a favoured position by s. 2 of the Act of 1908 and which criminals have found useful. On the whole the sale of poisons will now be better controlled because (*a*) Part I poisons can be sold only by " authorized sellers of poisons " on registered premises under the supervision of a registered pharmacist, (*b*) Part II poisons can be sold only by authorized sellers on registered premises or by persons whose names are on a local authority's list and who sell on premises specified in that list, and (*c*) all poisons (Part I or Part II) can only be sold in containers labelled with the name of the poison, with the prescribed particulars of the ingredients, with the word " poison " or other prescribed indication and with the name and address of the seller. Further, no Part I poison must be sold except to a person known by the seller, or certified in writing (in the manner prescribed by rules) to be a proper person to receive it ; and an entry, signed by the purchaser, must be made in a book kept by the seller with details of the date, name and address and so on. There is, however, some exception for medicines supplied or dispensed under proper professional responsibility, for wholesale transactions and for poisons used in research. The sale of poisons by means of automatic machines is prohibited. The Secretary of State may make rules for many purposes, such as the manufacture of poisons, their storage, transport and labelling, their containers, the addition of specified ingredients to distinguish them, their compounding and dispensing. With the repeal of much of the former Poisons and Pharmacy Acts as to the sale and supply of poisons, the expression " keep open shop " disappears. By s. 15 of the Act of 1868 it was an offence to " compound any medicines of the British Pharmacopœia except according to the formularies of the said Pharmacopœia " ; this provision, obscure in its effect and rarely (if ever) enforced, is now repealed. The new law will largely depend upon the Home Office rules.

Other Home Office Matters.—A short Blind Voters Act (c. 27) amends the Ballot Act so as to enable a blind voter to take a relative or friend to the polling booth to assist him in marking his voting-paper. This is a

happy alternative to the existing law whereby the blind voter must, in the presence of officials, tell the presiding officer the candidate for whom he wants to vote. To prevent the evolution of a professional " friend," no one may help more than two blind voters at any one election. There are, of course, proper provisions for non-disclosure.

As a protection to the police and a check to the gunman in England, the Firearms and Imitation Firearms (Criminal Use) Act (c. 50) authorizes a sentence of 14 years' penal servitude for persons who use " firearms" and " imitation firearms " (defined in the Act) to avoid arrest, and 7 years for those who are carrying these things without a lawful object at the time of committing, or at the time of apprehension for, a number of specified offences of varying gravity, one of which is the unauthorized taking of a motor-car. If a man is tried for the first of these two new offences (using a weapon to avoid arrest), the jury may find him guilty of the second. A firearm or imitation firearm, " notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile," is to be deemed an offensive weapon for the purpose of existing statutes which stiffen the penalty where such weapons are carried in cases of robbery with violence, armed housebreaking and so on.

The Magistrates Association recommended in 1928 that it should be made lawful to send summonses by post. The Service of Process (Justices) Act (c. 42) enables them to be sent by registered post in England. One object was to save the time spent by police constables who otherwise are taken from more important duties to serve summonses. As a safeguard for prospective defendants, the Act stipulates that service shall be deemed not to have been effected unless either the defendant appears (by himself or by his legal representative) in manner required, or it is proved to the satisfaction of the magistrates that the summons came to his knowledge. This stipulation frustrated the object of the Act ; the defendant has merely to put the summons in the fire to defeat the service.

The annual report of the Commissioner of Police of the Metropolis in 1932 (Cmd. 4294 of 1932) suggested various reforms. Some of them, such as the new Police College for training candidates for higher posts, needed no legislation ; others are embodied in a new Metropolitan Police Act (c. 33). With the idea of offering quicker promotion to young and intelligent men, power is taken to recruit constables for a fixed period not exceeding 10 years, with consequential amendment of various enactments as to health insurance and pensions. Other changes affect the age for compulsory retirement of senior officers, and the constitution of the Police Federation, a quasi-trade union for police constables.

Humanitarian Laws.—The late Lord Buckmaster's Protection of Birds Act (c. 52) strikes at the traffic in the capture and caging of wild English birds. It has a scheduled list of 66 " birds of species resident in or visiting Great Britain in a wild state," from the blackbird to the yellowhammer, and it simply penalizes by fine (*a*) the taking of any such bird with the intention that it shall be sold alive, and (*b*) the sale of such birds " other than close-ringed specimens bred in captivity." The court, on convicting of an offence, " may further order the bird to be dealt with as the court may direct." The Act, which leaves canaries to sing in their cages, was passed in spite of departmental deprecation of its drastic nature and the threat to bird shops, bird exhibitions and the trade in birdseed.

Under the Protection of Animals (Cruelty to Dogs) Act (c. 17), magistrates who convict a man of cruelty to a dog in England can order him

to be disqualified for keeping a dog or holding or obtaining a dog licence for such period as they think fit.

An Act "to provide for the humane and scientific slaughter of animals" (c. 39) requires that in every slaughter-house or knacker's yard in England animals "shall be instantaneously slaughtered or shall by stunning be instantaneously rendered insensible to pain until death supervenes, and such slaughtering or stunning shall be effected by means of a mechanically-operated instrument in proper repair." There is a saving for pig slaughtering on premises where electrical power is not available and for Jewish and Mohammedan methods. This provision will not apply to sheep unless the local authority applies it by resolution. Slaughtering and stunning must be by licensed slaughtermen only and persons under 18 must not be licensed. Precautions are to be taken in slaughter-houses and knackers' yards to avoid unnecessary pain and suffering to animals. Medical officers of health and sanitary inspectors may enter premises, and the local authorities for enforcing the Act are named. There is a comprehensive definition of "animal" in s. 9.

Miscellaneous.—There are two Expiring Laws Continuance Acts (cc. 2 and 48) in common form. Another continuing Act is needed to cut an awkward knot. When the Unemployment Insurance Act of 1930 was being passed, the House of Lords succeeded in imposing a three-year time-limit (till June 30, 1933), "and thereafter the Unemployment Insurance Acts, 1920 to 1929, shall have effect as if this Act had not been passed." The 1931 legislation for the removal of anomalies was due to expire on the same date. With only 48 hours to spare, a stop-gap statute (c. 26) was passed to give another year's extension.

Among other new laws to be briefly mentioned, an Electricity (Supply) Act (c. 46) slips amendments into two earlier Acts so neatly that, read by itself, it gives no inkling of its purport. By the Superannuation (Ecclesiastical Commissioners and Queen Anne's Bounty) Act (c. 47) the officers of these two organizations are assimilated to ordinary civil servants in respect of the gratuity granted to their legal representatives if they die while still employed. Some day the Ecclesiastical Commission and the Bounty, two bodies diversely responsible for the management of Church revenues, may be amalgamated. Meanwhile, the new Act allows the officers of each to aggregate towards superannuation the years they have continuously and successively served under the two bodies with years afterwards served in some joint appointment under both.

The property and endowments of the Church of Scotland have been handed over to the General Trustees of the Church, with wide powers of control and disposal, as the result of an Act of 1925. The process is carried farther in 1933 by the Church of Scotland (Property and Endowments) Amendment Act (c. 44). Along with various provisions about churches, manses and churchyards and the suppression and union of parishes, there is a section giving a Church of Scotland minister "who has been appointed to a charge without limit of time or for a period of years to officiate as minister" the same power of notarial execution of wills as a parish minister acting in his own parish already possesses.

Scottish Private Legislation Procedure.—In a small degree the burdens of Parliament are lightened, and the demand for Scottish Home Rule is recognized, by an adjustment of the legislative machinery of Scotland. Provisional orders, approved by the appropriate department and confirmed by Parliament, are a simpler and cheaper method of law-making than

Local Acts. Scotland obtained special facilities in this respect by an Act of 1899, sponsored by Lord Balfour of Burleigh. Scottish petitioners for fresh Parliamentary powers were to submit a draft order to the Secretary for Scotland. The Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons would then scrutinize the draft order. If they thought its proposals did not relate wholly or mainly to Scotland or were " of such a character or magnitude, or raise such questions of policy or principle " that they ought to be dealt with by Private Bill and not by provisional order, the matter would proceed accordingly. If they thought the proposals might go forward as a provisional order, then the draft order, if opposed or if inquiry was deemed necessary, was sent for examination and report to four commissioners sitting in Scotland. Two of the commissioners would be members of the House of Lords, two would be members of the House of Commons ; there was a supplementary " extra-Parliamentary panel " of persons " qualified by experience of affairs to act as commissioners." No commissioner was to act in a matter wherein he had any personal or local interest.

This system has worked well and is now extended by the Private Legislation Procedure (Scotland) Act, 1933 (c. 37). Electricity orders were excluded from the procedure in 1899 when they were less familiar ; the new Act brings them in. The direction to the chairmen to have regard to the " character and magnitude " of the proposals is altered ; the consideration of " magnitude " drops out and the new direction demands a determination whether the proposals " raise questions of public policy of such novelty and importance that they ought to be dealt with by Private Bill and not by Provisional Order." The change will give Edinburgh a larger share in the drafting of local legislation previously monopolized by technical experts centred in London.

Local Acts.—Private Bills, in the foregoing paragraphs, are so called to distinguish them from public Bills. The distinction is that a private Bill originates on petition of some person or class of persons interested in obtaining some exception from the general law, whereas the public Bill is introduced on the motion of a member of one of the two houses as a measure of general policy. Acts of Parliament have, since 1868, been classified as (*a*) Public General Acts, (*b*) Local Acts, and (*c*) Private Acts ; their chapters are respectively numbered in ordinary arabic figures, roman figures and italicized arabic figures.

There are 92 Local Acts in this session, and one Private Act which concerns the trusts of the Grosvenor Estate. The East Hull Gas Act and the Middlesbrough Corporation Act are laudable examples of consolidation (with some admixture of amendment). As usual, the Local Acts enlarge in various ways the standard powers of local authorities in the field of local government and public health. Thus in several places there is stricter control of the nuisance of noise or of the destruction of amenities than under the general law. The premises of hairdressers and barbers must be registered in Middlesbrough, houseboats are to be registered in London and boxing entertainments require a licence in the county of Essex. Lock-up shops must not be used for habitation in Barking. Streets may be closed at Salford to provide playgrounds for children. The corporate life of the country is seen to be adjusting itself to modern developments. Four towns are concerned to establish aerodromes ; for the purpose of several harbour undertakings the definition of " vessel "

is now to include seaplanes ; and some ancient hospitals obtain powers to take in paying patients.

Church Assembly Measures.—Four Measures received the Royal assent during the session. Two were local in character. A third, the Benefices (Purchase of Rights of Patronage) Measure, carries on the movement against treating the rights of presentation to a benefice as a mere matter of bargain and sale. In 1924 a Measure made all these rights unsaleable as soon as the next two presentations had been made. This stimulated the traffic while the rights still had a commercial value. Transfers rose from 107 in 1924 to 200 in 1929. Party trusts, favouring particular doctrinal opinions, were busy buyers, often in complete secrecy. Benefices thus came to be conferred to suit the purchasers' views rather than the parishioners'. Another Measure in 1930 dealt with the secrecy but did not help the parishioners who had suffered from pre-1930 purchases. Another in 1931 gave the parish some voice in the selection of its pastor ; but, where the patron was now a party trust, the terms of the trust involved the successive nomination of candidates acceptable to the party. The new Measure of 1933 entitles the parochial church council to repurchase the right of presentation and to hand it over to a Diocesan Board of Patronage. Its retrospective effect is limited and its operation depends on the financial resources available to the parish.

The Benefices (Sequestration) Measure relates to parishes without a pastor. It is the function of sequestrators to receive the income and hold the property of a benefice during a vacancy. There is sometimes a delay before a new pastor is appointed, and powers were needed to enable the bishop to assign remuneration for the curate-in-charge, to look after the vacant house and garden, to avoid disputes between new and old incumbents by apportioning income and, where a curate-in-charge already occupies a house of his own, to let the parsonage.

Delegated Legislation.—In the calendar year 1933 there were 1,243 Statutory Rules and Orders registered under s. 3 of the Rules Publication Act, 1893. This total, consisting of 560 general and 683 local rules and orders, is slightly above the average of the previous six years but is several hundred below the average annual figure for the post-war years down to 1927. The stout volume which publishes the official text of the delegated legislation of 1933 contains the usual farrago—rules of court (including a new code of procedure for the Royal Air Force courts martial), orders under the Diseases of Animals Acts, and regulations about education, factories and workshops, housing, national health insurance, public health, railways, road traffic, trade boards, unemployment insurance, wheat growing and workmen's compensation. There are new Prisons Rules for England and new regulations for national savings certificates. The control of motor traffic reveals the Minister of Transport as a legislator prescribing one-way routes in London and arranging the international circulation of cars, the insurance against third-party risks, the licensing of public-service vehicles, the disposal of lost property and the parking of vehicles. There are signs of the times in the 150 pages under the heading of " Customs " occupied by additional import duties orders and exemption orders. There are agricultural marketing schemes for bacon, milk, pigs and potatoes. Except in certain exempted cases, only registered producers may sell these commodities. The potato scheme prohibits the sale of " smalls," *i.e.* potatoes, other than new potatoes, which will pass through a mesh of $1\frac{1}{2}$ square inches. The " planning " of industry pre-

sumably involves these interferences. The orders which approve these schemes recite the fact that the schemes have been approved in draft by resolution of both Houses of Parliament.

2. JERSEY.

[*Contributed by* C. W. Duret Aubin, Esq., *H.M. Solicitor-General.*]

During the year 1933 six Acts of the States, only one of which was of more than local interest, received Royal Sanction and became law.

Seven Statutory Regulations, which required no Royal Sanction, were also enacted. They were of no general interest.

One Order of His Majesty in Council, of general interest and importance, was ordered by the Royal Court to be registered.

The Law and Order in Council of general interest were the following:

Importation and Slaughter of Cattle.—By Act (L 7) of February 7, 1933, sanctioned by Order of His Majesty in Council of April 19, 1933, the laws dealing with the law on the importation of foreign (*i.e.* non-Jersey) cattle, on the examination of meat and on the slaughtering of animals, are codified and amplified.

In order to prevent contagion from outside sources, and to maintain the purity of the Island breed, the importation of cows, heifers, calves or bulls is absolutely prohibited, whether for purposes of reproduction or of slaughter.

The importation of sheep, pigs or goats is prohibited for purposes of slaughter; for purposes of reproduction special permission has to be obtained and rigorous veterinary formalities are laid down.

Stringent provisions are enacted for the inspection of all meat or poultry imported for human consumption, and wide powers of confiscation are given to the States' Veterinary Surgeon.

The use of the humane killer is made obligatory, and slaughterers, who cannot be under 25 years of age, require to be licensed for that purpose.

Merchant Shipping Load Line Convention.—This Order in Council (L 4) of February 7, 1933, applies to the Island of Jersey, with certain exceptions, adaptations and modifications, the provisions of Part II of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932.

3. NORTHERN IRELAND.

[*Contributed by* Sir Arthur Quekett, K.C., LL.D.]

In the fifth session of the third Parliament of Northern Ireland (November 22, 1932, to November 9, 1933), thirty-three public general Acts received the Royal Assent, including three passed before the close of the year 1932 and noted in the *Review of Legislation* for that year. There were also four local Acts.

Stormont Estate and other Government Property.—The Parliament and Government Buildings at Stormont, which were opened by H.R.H. the Prince of Wales on November 16, 1932, are situated in an estate of 314 acres, comprising the Stormont Castle Demesne, conveyed by the Commissioners of H.M. Works and Public Buildings to the Ministry of Finance for Northern Ireland and held in trust by that Ministry for the public purposes of the Parliament and Government of Northern Ireland. The

estate includes also some land acquired for the same purposes by the Ministry of Finance. The Castle is the official residence of the Prime Minister, and a house has also been erected for the Speaker of the House of Commons. Private grounds surround these two residences, but the greater part of the Stormont Estate is kept open for the benefit of the public.

When the Legislature met for the first time at Stormont, one of the measures to claim their attention was the Stormont Regulation and Government Property Act (c. 6), which accords to the Government such powers as will enable the amenities of the Stormont Estate to be preserved. The authority chosen for this purpose is the Ministry of Finance, because all public works are within the sphere of that Ministry, as successors in Northern Ireland to the Irish Commissioners of Public Works. The Ministry is to make regulations regarding the admission of the public to the Estate. Park-keepers—called " rangers "—are appointed by the Ministry to secure the observance of the regulations, and for that purpose have the powers and responsibilities applicable to constables acting in the execution of their duties. The regulations must, as is usual in such cases, be displayed to the public at the Estate ; they must be laid before Parliament, and provision is made for their annulment by resolution of either House. Penalties are prescribed for contravention of the regulations, for the giving of a false name or address to a ranger, and for any assault committed upon a ranger in the execution of his duty.

The Act also makes provision as to another matter affecting the " Works Branch " of the Ministry of Finance, that is to say, the taking and disposal of land for the public service. At the inception of the Northern Ireland Constitution, the six Ministries were incorporated and endowed with a capacity to acquire and hold land. They did not, however, receive any express power of acquisition, but depended upon such specific enactments as might be found in the existing statutes of the United Kingdom Parliament applying to the functions which were transferred to them. The necessity for the regulation of the Stormont Estate afforded an appropriate opportunity for definite legislation on this point. S. 5 of the Act gives to the Ministry of Finance a general power to purchase by agreement, or take on lease, any land required for the administration of a public service. That Ministry is also empowered to sell, exchange, lease or surrender any land for the time being vested in it, and a similar power may be exercised by other Ministries with the consent of the Ministry of Finance. The disposal of the land is to be " at the best price or for the best rent or otherwise on the best terms which, in the opinion of the Ministry of Finance, can reasonably be obtained." To this rule exception is made in two cases : (1) where the property is to be transferred to a local authority, or to a body carrying on a public undertaking otherwise than for profit ; (2) where the Ministry of Finance is satisfied that the transfer will result in the development, improvement or general benefit of any government property.

The power to dispose of land does not extend to the two endowments received from Great Britain—the Stormont Castle Demesne and the Government House at Hillsborough with its estate of 1,000 acres. The general power to acquire land is given only to the Ministry of Finance ; other Ministries must still rely upon particular statutory authority.

Agricultural Marketing Schemes.—By the Agricultural Marketing Act (c. 22) the Ministry of Agriculture is empowered to set in motion a form

of agricultural co-operation, having for its object the more efficient production and marketing of products of agriculture or horticulture, including articles of food or drink wholly or partly manufactured or derived from an agricultural product, and fleeces and the skins of animals. The marketing of any product to which an agricultural marketing scheme applies is regulated by a board constituted under the scheme, and composed of persons elected by registered producers together with three members appointed by the Minister of Agriculture.

A marketing board has extensive powers of control over the product which comes within the scheme administered by that board. The board can buy the regulated product, produce commodities from that product, and sell, grade, advertise and transport the product and any commodity produced therefrom. Registered producers may be required to sell the product only to, or through the agency of, the board. The board may be empowered to operate a " price pool " by receiving all sums payable by purchasers of the regulated product in respect of sales of that product by registered producers, and distributing those sums to the sellers in such manner as may be specified in the scheme or prescribed by the board. A scheme can provide for the determination of the descriptions of the regulated product which may be sold by any producer, and the price at which, the terms on which and the persons to whom the regulated product, or any description or quantity thereof, may be sold. The quantity (if any) of the regulated product which may be sold by any producer can also be determined under the scheme. When a scheme is in force no sale of the regulated product may be made by any producer who is not either a registered producer or a person exempted from registration. Contravention of these restrictions can be visited by a fine up to £5 on summary conviction or £200 on conviction on indictment, in either case with an additional fine not exceeding half the price at which the product was sold contrary to the provisions of the scheme.

The Act places the framing and approval of schemes in the hands of the Ministry of Agriculture. When framing a scheme the Ministry must take into consultation representatives of the producers and also representatives of any other interests which may be affected by the scheme. If, after a scheme has been framed, any objections with respect thereto are received by the Ministry, these must either be met by modification of the scheme or be investigated by means of a public inquiry to be held by a competent and impartial person appointed by the Minister.

The Act is in many respects complementary to the Agricultural Marketing Act passed in the same year by the United Kingdom Parliament. That Act, taken with the Northern Ireland measure, completes a system of agricultural regimentation for the United Kingdom as a whole. The Westminster Act provides for restrictions upon the import of agricultural products into the United Kingdom ; the regulation of sales of home produce by means of a " quota " ; and for development schemes operated —as respects Great Britain and Northern Ireland—by development boards for organizing the production of secondary agricultural products. The Northern Ireland statute enables the Northern Ireland share of the " quota " to be defined and adhered to on the home markets by means of the marketing schemes together with regulations of the Ministry as to the removal of regulated products from Northern Ireland into Great Britain.

The general effect of the statute is the same as that of the Agricultural Marketing Act, 1931, which was passed for Great Britain. The 1931 Act

was strengthened in its application to Great Britain by amendments contained in the United Kingdom Act of 1933, and these amendments were for the most part adopted in the Northern Ireland measure. In Northern Ireland, however, the procedure for bringing schemes into force differs from that which was adopted for Great Britain. In Great Britain the initiative in formulating schemes, and the decision to bring them into force, rest with the producers themselves. In Northern Ireland the Ministry is charged both with the preparation and with the approval of the schemes. The difference in procedure is due to the terms of the United Kingdom Act of 1933, under which, if the importation of an agricultural product is controlled, the sale of the home-produced article must also come under regulation : in short, the policy of the United Kingdom Act demanded that some form of government action should be taken to secure co-ordination between the marketing schemes of Great Britain and those of Northern Ireland. The ultimate safeguard possessed both by the producer and by the general public in Northern Ireland is to be found in provisions of the Northern Ireland Act which enable either House of Parliament at any time to resolve that a scheme shall be revoked, and which limit the operation of every scheme to a period of two years from its coming into force, unless within that period the scheme has been approved by affirmative resolutions of both Houses of Parliament.

Creamery Butter.—The Marketing of Dairy Produce Act (c. 19) makes an amendment in the Act of 1929 (20 Geo. 5, c. 14) by enabling certain processes in connexion with creamery butter to be undertaken on premises registered as a central creamery. The amending Act also authorizes the Ministry of Agriculture to refuse registration of premises as a creamery if the Ministry is not satisfied that the local supply of milk is sufficient to justify the establishment of the proposed creamery.

Agricultural Loans.—The Ministry of Finance has power under s. 2 of 19 Geo. 5, c. 3, to guarantee the repayment of loans made by banks to occupiers of agricultural holdings for various purposes. The 1929 Act applied to the purchase of seeds or artificial fertilizers for the cultivation of such holdings. In an Act of 1930 (20 & 21 Geo. 5, c. 4) the purchase of live stock and poultry was included, and by s. 2 of the Exchequer and Financial Provisions Act, 1933 (c. 10) the purposes for which loans may be guaranteed were further extended so as to include " general purposes in connexion with " agricultural holdings. The last-mentioned Act also enabled assistance to be given from the Exchequer towards the payment of interest on guaranteed loans. Application for a guaranteed loan had to be made on or before December 31, 1933, but a guarantee when given might be renewed at a later time. The aggregate capital amount of the loans, the principal or interest of which may be guaranteed, was limited by the original Act to a sum of £250,000.

The Musk Rat Menace.—When the Westminster Parliament passed the Destructive Imported Animals Act, 1932, there was abundant evidence of the destructive qualities of the musk rat in Shropshire and on some of the Scottish rivers. The Act did not extend to Northern Ireland, but it contained a provision (out of an abundance of caution) that similar legislation by the Parliament of Northern Ireland should not be deemed to be beyond the powers of that Parliament. The Northern Ireland Government, when bringing forward their own measure, were able to describe it as being of precautionary character, because the musk rat had not invaded Northern Ireland. The Destructive Imported Animals Act

(Northern Ireland) (c. 5) gives power to the Ministry of Agriculture to prohibit or control the importation into Northern Ireland, or the keeping therein, of musk rats. During the debates the Minister of Agriculture gave an undertaking that he would forthwith exercise this power by way of absolute prohibition. Authority is also given for extending the provisions of the Act to other destructive imported animals by an Order; but before such an Order takes effect an affirmative resolution passed by each House of Parliament is required. In the meantime, the behaviour of animals such as the grey squirrel and nutria beaver is under observation. The debate in the Senate is notable for a comment made by the member of the Government in charge of the Bill. After informing the House that no less than 100 million musk rats were stated to be at large in Central Europe, he remarked: "It is a tribute to the efficiency of the gentlemen responsible for the collection of statistics in Central Europe that they were able to count them."

Sea-fishing Industry.—The provisions of the Sea-fishing Industry Act, 1933 (23 & 24 Geo. 5, c. 45), which was passed at Westminster, applied to the whole of the United Kingdom, with one exception. The excepted provision is s. 4, which deals with the minimum sizes of sea-fish which may be sold, and its operation is confined to Great Britain. The regulation of sales within Northern Ireland is effected by c. 29, the provisions of which are similar to those of the Great Britain enactment.

Protection of the Grey Seal.—The Legislature has dealt more benevolently with contingent visits of the grey seal to the coast of Northern Ireland than with the prospects of invasion by the musk rat.

Parliamentary Committees halted for some years between opposing policies—protection of the fisheries, and preservation of the species *Halichœrus Grypus*. As regards Northern Ireland there was a further element of doubt. The common seal is found in considerable numbers around the coast, but the grey seal is seldom, if ever, met with. Its principal habitat is the Hebrides, but it has been sighted as close to Northern Ireland as the shores of Donegal. Eventually, a measure was introduced with a view to bestowing upon the grey seal the same limited protection as had already been given, as respects Great Britain, by an Act of 1932. The Grey Seals Protection Act (c. 11) fixes a close season for grey seals extending from September 1 to December 31, but empowers the Ministry of Commerce, by Order, to direct that for twelve months following the making of the Order there shall be no close season, or that the next close season shall begin and end on dates specified in the Order. The Act also provides for the imposition of fines upon persons convicted of killing, wounding or taking a grey seal during the close season. An Order under the Act may provide that, outside the close season, the killing of grey seals is to be prohibited except under permit and by approved methods. Orders under the Act must be laid in draft before each House of Parliament, and no further proceedings on the Order are to be taken if either House during a specified period passes a Resolution disapproving of the draft or any part of the draft.

Electricity Development.—The Electricity (Supply) Act (c. 33) extends the powers of authorized undertakers supplying electricity, and makes some practical amendments in the law governing such supply.

Undertakers are enabled to use for general purposes any transformer installed for the purpose of affording a supply to a particular consumer. Provision is made for cases where the area of supply of two different

undertakings abut on each other, and the centre line of a roadway is the boundary; in such a case the undertakers are empowered to carry their lines on the side of the roadway which is outside their area.

Another provision of the Act removes doubts as to the interpretation of s. 37 of the Act passed in 1931. Under that section, where a way-leave for an electric line is sought by undertakers and refused by the owner or occupier of the property, the undertakers can apply to the Ministry of Commerce for a consent to a way-leave, and provision is made for a hearing before the consent is granted.

The section in the Northern Ireland Act of 1931 is similar to s. 22 of the Electricity (Supply) Act, 1919, which applies in Great Britain. It was held in a recent case under the latter section [1] that the Minister of Transport, in determining the question of a consent to a way-leave, had no power to award that a sum by way of compensation or rental should be paid as part of the terms for obtaining the way-leave. The Northern Ireland amendment of 1933 disposes of this difficulty by a declaration that the word " terms " in the 1931 enactment is to be taken as including pecuniary as well as other terms.

Undertakers are empowered by the Act to attach brackets or fixtures to buildings for the support of electric service mains. They may also make by-laws with respect to the nature, material, workmanship and mode of arrangement of electric wires, apparatus and fittings in premises supplied by them with electricity. The by-laws are subject to confirmation by the Ministry of Commerce, and any dispute as to their application in a particular case can be referred to the decision of the electric inspector.

Land Drainage.—Authority was given by statute (c. 30) for the carrying out of arterial drainage works for reducing flooding on the River Quoile in the county of Down. The provisions made for this purpose are similar to those which had been adopted in the case of the Bann drainage works—that is to say, the Ministry of Finance is charged with the execution of the works and the expenses are placed in part upon moneys voted by Parliament and in part upon contributions out of the rates of the county and the Downpatrick Urban District. The same Act authorizes a contribution by the Fermanagh County Council towards certain expenses incurred by the Ministry in improving the drainage of the Lough and River Erne.

The Legislature, in s. 5 of the 1933 Act, once more makes an attempt to secure that agricultural lands shall not be flooded by reason of any neglect to keep clear the watercourses running through the lands. This enactment departs from the principle of assuming that a responsibility for the work lies on any particular person. It expressly provides that it shall be the duty of the occupier of any agricultural lands on or through which a watercourse runs, or of which a watercourse forms a boundary, to scour out and cleanse so much of the watercourse as runs on or through or bounds the lands occupied by him, and to maintain it in such a condition that the proper flow of the water is not obstructed. A proviso relieves the occupier of the duty in the case of any scheme under which the income of a fund was made available for the same purpose when the land was being transferred under the Land Purchase Acts. The section entrusts the county council with the powers necessary for enforcing its provisions, whilst a right of appeal to the county court against a council's

[1] *West Midlands Joint Electricity Authority* v. *Pitt*, [1932] 2 K.B. 1.

requirements is given to an occupier who feels himself aggrieved by any such requirement.[1]

Housing Facilities.—An Act of the Session under review (c. 32) takes a step towards closer co-operation between the Government and the local authorities in the matter of the housing subsidy. Previously the granting of a subsidy from the Exchequer was independent of any grant from local rates. The Act of 1933, while continuing the Government subsidy at the rate of £25 per house, makes that grant conditional upon the giving by the local authority of a sum of equal amount or a ten years' exemption from local rates. The local authority are also empowered to attach conditions to their grants or exemptions from rates. Where such conditions are imposed they attach also to the government subsidy, which is handed over to the local authority to be paid out ; and the local authority are entrusted with the necessary powers for enforcing observance of the conditions. The conditions which a local authority may impose are such as the Ministry of Home Affairs may approve ; but the statute makes particular mention of the condition that for a period of three years the house shall not be let at a rent in excess of an approved amount. Where the condition as to rent is laid down, the rents to be charged for houses erected by the local authority themselves are also subject to the approval of the Ministry.

The local authority are empowered to take further action with the object of increasing housing accommodation, namely—to advance money to persons or bodies of persons for the purpose of enabling them to build approved houses, and to guarantee the repayment to corporate and other bodies of any advances made by those bodies to persons who are prepared to build approved houses. The Ministry may reimburse a part of any loss sustained by the local authority under such a guarantee, and may also make an annual contribution towards the interest charges incurred by the local authority. The contribution is not to be paid for a longer period than twenty years from the date of the borrowing, and is to be equal to ten shillings per cent. per annum on the amount outstanding of the money borrowed by the local authority—whether for expending it on the building of approved houses or for lending it at a lower rate to persons or bodies for the like purpose.

International Tourist Trophy Motor Race.—A special Act of Parliament (c. 18) was passed to regulate the admission of motor vehicles to the area of the International Tourist Trophy Motor Race held on the well-known "Ards Circuit" in September, 1933. The Act follows precisely the statute of the previous year, its object being to provide for a part of the expenses of the race being defrayed by the sale of a badge to be displayed on motor vehicles entering the Race Area, or produced on demand by the driver or person in charge of a vehicle.[2]

Loans Guarantee.—Under a series of Acts, starting in the year 1922, the Ministry of Finance is empowered to give guarantees in respect of loans for undertakings calculated to promote employment in Northern Ireland. The exercise of the power depends upon its continuance from time to time by Parliament, and by c. 9 a continuance up to March 31, 1935, was granted. C. 21 extends the powers of the Ministry by enabling re-borrowings to be guaranteed in cases where the original borrowers can

[1] For the previous legislation in the matter as respects Northern Ireland see *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, pp. 20 and 21.

[2] See *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 22.

redeem a guaranteed loan under powers reserved to them by the deeds or instruments relating to the loan. A guarantee given to cover a re-borrowing must not impose upon the Ministry of Finance any liability greater than the liability on the original loan existing at the date when the new loan is raised.

Unemployment Insurance.—The administration of unemployment benefit and transitional payments was at the beginning of the Session of 1933 regulated by the provisions of the Act of 1930 and of an Order in Council made under the Economy Act, 1931. The duration of these provisions was limited to June 30, 1933. Pending the general amendment of the system which subsequently took place, the enactments of 1930 and 1931 are by a further statute (c. 20) extended in their duration until June 30, 1934.

Probate and Administration.—The Probates and Letters of Administration Act (c. 16) renders the law in these matters more suitable to modern business conditions.

Under the former law, if a corporation aggregate were appointed executor of a will, the corporation—being incapable of taking the executor's oath—appointed a syndic or nominee to whom administration with the will annexed was granted. When the corporation was appointed with one or more individual executors, administration would not be granted to the corporation unless all those individually appointed renounced probate. Recent years have witnessed a great development of trust and executorship business in special departments of the banking and insurance companies. Thus a demand for the modernization of the law grew up, and it was acceded to, first in England and subsequently in the Irish Free State.

The Northern Ireland Act empowers the High Court, in a case where a " trust corporation " is named in a will as executor (either alone or jointly with another person), to grant probate to the corporation either solely or jointly with another person, and also to grant letters of administration to such a corporation either solely or jointly with another person. The category of " trust corporation " is so defined as to include the greater banks and insurance companies authorized to undertake trust business within the United Kingdom. The statute also provides for the making of rules of court specifying the cases in which personal sureties to the administration bond are not to be required when the grant is made to a trust corporation. The legislation is similar to that which, as respects England, is now to be found in s. 161 of the Supreme Court of Judicature (Consolidation) Act, 1925. It follows that enactment in abolishing the practice of making grants to a syndic on behalf of a corporation, and in requiring transfers to be made in cases where a syndic was acting at the time of the change of law. In the Irish Free State Act (No. 9 of 1928) the option of adhering to the former procedure by syndic was preserved. As between Northern Ireland and England or Scotland, probate or administration granted in one of those countries can be resealed in either of the others ; and this consideration pointed to the necessity for adopting the English precedent in Northern Ireland.

The Act also gives jurisdiction to the High Court to issue grants of representation in cases where a deceased person has left no property in Northern Ireland belonging to him. Previously there was no express provision on the point though the need at times arose for a personal representative to attend to the affairs of the deceased. The Irish practice

had been to get over the difficulty by assuming assets of a nominal value, in order to give jurisdiction to the court. A legal fiction is thus superseded by legislation.

Crown Debts in Bankruptcy.—In the year 1897 a famous Irish Judge—"Palles C.B."—drew attention to a vital difference between the Irish and the English bankruptcy legislation, which depended upon the absence from an Irish enactment of a few words and gave rise to an anomaly as regards the payment of Crown debts in Ireland.[1] Thirty years later, after the constitution of Northern Ireland had been established, the removal of the anomaly was recommended by a Bankruptcy Law Amendment Committee appointed by the Minister of Commerce. That Committee reported as follows:

> In England income-tax and other Crown charges take priority over ordinary debts, but not exceeding on the whole one year's assessment. Beyond this amount they rank *pari passu* with other debts. In Ireland it has been decided that the Crown's claim takes absolute priority over other ordinary debts, without respect to the period which it covers. Instances have been brought to our notice of distinct hardship caused to other creditors through the operation of this unlimited priority. It is our view that in this matter the Crown should not enjoy a more favoured position in Northern Ireland than in England, and, accordingly, we recommend that the law on this point, as it applies in Northern Ireland, should be brought into conformity with English law and practice.

Legislation in the Parliament of Northern Ireland was not immediately practicable, because that Parliament had not power to deal with the matter so far as it affected income-tax and other reserved taxes and such Crown debts as came within the category of reserved matters. At the time when the recommendation was made, it would have required two enactments to give effect to it—one passed by the United Kingdom Parliament dealing with reserved taxes, and the other by the Parliament of Northern Ireland dealing with transferred taxes. The difficulty and inconvenience of this course was removed by s. 6 of the Northern Ireland (Miscellaneous Provisions) Act of the year 1932, by which the United Kingdom Parliament empowered the Parliament of Northern Ireland to make laws, with the consent of H.M. Treasury, to regulate and restrict the priority in bankruptcy of Crown debts and certain other debts which were within a reserved category.

The enabling power was exercised in the form of the Preferential Payments in Bankruptcy Act (c. 7). The Act takes the form of a re-enactment, with amendment, of the Act of 1889 which applied in Northern Ireland. Its chief object was to remove the anomaly as regards Crown debts, by enacting that, "Subject to the provisions of this section, all debts proved in a bankruptcy, including Crown debts, shall be paid *pari passu*."

A further provision of the Act restored a right to priority in bankruptcy which had at one time been enjoyed by trustee savings banks and by the Post Office Savings Bank, but was inadvertently taken away, as regards Ireland, by the Act of 1889. The legislative occasion was made use of to clarify some provisions contained in the 1889 Act, and to consolidate in a single statute both that Act and the subsequent enactments relating to preferential payments in connexion with workmen's

[1] *In re Galvin*, [1897] 1 I.R. 520.

compensation, health insurance, contributory pensions and unemployment insurance.

County Court Administration.—The County Officers and Courts Act (c. 13) adds a further instalment to the administrative reforms initiated by the Northern Ireland Parliament in their Act of 1925.

The Act of 1933 deals in the first place with the officers. The Clerk of the Crown and Peace has various functions. The office represents a union of the two offices of the Clerk of the Peace and Clerk of the Crown, the former concerned with sessions and the latter with assizes. The Clerk is also the local registering authority for the registration of title to land, and he is the registration officer who compiles the register of parliamentary and local government electors. The functions in relation to registration of title and registration of electors were reserved to the United Kingdom Parliament, with the result that the Clerk of the Crown and Peace performs functions relating to reserved as well as transferred matters. The 1933 Act simplifies the arrangements for remunerating this functionary by providing that his salary and pension will be voted by the Northern Ireland Parliament. Previously the remuneration was voted in part by the United Kingdom Parliament and a corresponding deduction was made from the Northern Ireland share of reserved taxation before it reached the Northern Ireland Exchequer. The enactments which authorize the voting of this money at Westminster were repealed by s. 7 of the Northern Ireland (Miscellaneous Provisions) Act, 1932. The Northern Ireland Act also provides that the Governor may appoint a temporary Clerk of the Crown and Peace during a period of six months from the occurrence of the vacancy in the office, and it enables county court judges' registrars to be included in the general county court service set up by the 1925 Act. The Act clarifies the provisions of the 1925 statute as regards the superannuation of persons in the county court service, by applying to that service all enactments as to superannuation which may for the time being be applicable to the Civil Service.

A second group of provisions relates to administration. These provide for the use of a county court seal in lieu of the signature of the judge ; for the examination of accounts by the Comptroller and Auditor-General ; for the investment of moneys paid into court ; and for the disposition of dormant or unclaimed funds.

The Governor is empowered to appoint county court judges to act outside the areas to which their original appointments relate. Charges are placed upon voted moneys in respect of the remuneration determined to be payable to deputy county court judges ; previously the permanent judge had to suffer a reduction of salary for the payment of his deputy.

An amendment is made in s. 5 of the Jury Laws Amendment Act (Northern Ireland), 1926. That enactment abolished Grand Juries at Courts of Quarter Sessions, and made provision that an indictment might be presented to a Court of Quarter Sessions without having been found by a Grand Jury " if it is an indictment against a person committed for trial at that court." The words quoted gave rise to doubt whether there still existed any method by which the Attorney-General or a private person might exercise the common law right of presenting a Bill at Quarter Sessions—an effect which was not intended. The matter is put right by the 1933 Act. A minor amendment is also made in the law as to the notice to be given of the holding of Quarter Sessions.

Company Law Amendment.—By a short Act (c. 15) some minor

amendments are made in the lengthy Companies Act passed in the year 1932. The amendments include the repeal of an enactment under which the High Court could remit a winding-up matter to the local bankruptcy court. The powers of a liquidator in a winding-up by the court are extended by enabling him to dispose of lands by way of fee farm grant or lease, subject to such rents, covenants and conditions as may be expedient for the beneficial winding-up of the company. The liquidator's powers in a voluntary winding-up are extended so as to enable him to exercise certain powers given by the Act of 1932 to the liquidator in a winding-up by the court. For the sake of convenience of reference, the amending Act provides for its citation together with the principal Act under a single, rather than a collective, title as "The Companies Act (Northern Ireland), 1932."

Moneylenders.—The Moneylenders Act (c. 23) requires every person who carries on the business of moneylending to take out annually a moneylender's excise licence. Licences can only be issued to persons holding certificates granted by a Court of Summary Jurisdiction constituted of a resident magistrate or magistrates. A certificate is not to be refused except on some one or more of the grounds specified in the Act.

The Northern Ireland statute follows in the main that measure of "vigorous interference with an unpopular trade" which became law at Westminster in the year 1927. It contains, however, various provisions which are not to be found in the 1927 Act. Two new grounds of refusal are added, namely: (1) that the applicant has not been resident in Northern Ireland for at least twelve months; and (2) that the applicant holds a licence for the sale of intoxicating liquor.

S. 6, which deals with the form of moneylenders' contracts, provides that the note or memorandum of the contract which has to be signed by the borrower must, in any case where the borrower is a married woman totally dependent on her husband, be signed also by the husband.

S. 11 extends the power of a court or judge (under the 1900 Act) to reopen a moneylending transaction to any case where proceedings are taken on foot of a judgment obtained in respect of a moneylending transaction, or of a judgment mortgage where the judgment registered as a mortgage was obtained in respect of a moneylending transaction; provided that the court or judge before whom the proceedings are taken is to be satisfied that the judgment was obtained in such circumstances that the transaction was not investigated by the court which granted the judgment.

S. 18 debars a moneylender from employing a special bailiff in the execution of any decree obtained by the moneylender in the county court in respect of a moneylending transaction.

Borrowers are sometimes induced to execute a warrant of attorney to enter judgment on a bond given for money lent, and the Supreme Court Rules provide that, at any time within ten years from the execution of such a warrant, judgment may be marked thereon as of course in the office of the court. Consequently, judgment may be marked without any preliminary investigation into the reasonableness of the transaction. With the view of putting an end to this practice, s. 19 of the Act of 1933 provides that Rules of Court may be made to the effect that, within twelve months from the date of any warrant of attorney given to a moneylender, or any writ or petition issued by a moneylender for the recovery of money lent, judgment will not be entered thereon without an order of the court, and that if, after the expiration of twelve months from the date of any

such warrant of attorney, judgment is entered thereon, no writ of execution is to issue without an order of the court. The same section provides that, after the making of such Rules of Court, upon any application for an order for leave to enter judgment or issue execution, the transaction in respect of which the order is sought may be reopened by the court under the Act of 1900.

Criminal Law.—The Criminal Justice Act (c. 31) makes several amendments in the administration of criminal law.

In the first place, the Act follows English statute law by amending s. 10 of the Criminal Justice Administration Act, 1914, so as to enable a court of summary jurisdiction to send forward convicted youthful delinquents to assizes, as well as to quarter sessions, for sentence, and it empowers the court of assize to sentence the offender to detention in a Borstal institution. The same enactment provides an appeal to the Court of Criminal Appeal for Northern Ireland against a sentence of detention in Borstal which has been pronounced by the court of assize. The jurisdiction of the Court of Criminal Appeal was conferred by a Westminster Act, and special authority to extend that jurisdiction to the present case was given to the Northern Ireland Parliament by a further Westminster Act, 22 & 23 Geo. 5, c. 11, s. 1.

The Criminal Evidence Act (Northern Ireland), 1923, provided that the wife or husband of a person charged with any offence within a certain category might be called as a witness either for the prosecution or defence, and without the consent of the person charged. This category included certain offences described in the First Schedule to the Children Act, 1908, by the words " any other offence involving bodily injury to a child or young person." Doubt arose as to the meaning of these words, and the Act of 1933 removes the doubt by declaring that they are to be taken as including the murder or manslaughter of a child or young person, and also infanticide.

It is made an offence, triable by a court of summary jurisdiction, for a person to receive or have in his possession pension documents as a pledge or security for a debt.

A person accused of having fraudulently obtained any benefit or payment under the Poor Relief Acts may be tried and sentenced by a court of summary jurisdiction.

Continuance of Special Powers.—By the Civil Authorities (Special Powers) Act (Northern Ireland), 1922, the Government was empowered to take steps outside the ordinary law for preserving the peace and maintaining order. The civil authority named in that Act is the Minister of Home Affairs, and under him any officer of police to whom he may delegate powers. The Act was of temporary duration and kept upon the statute book by successive continuing Acts. The Civil Authorities (Special Powers) Act (c. 12) amends the Act of 1922 in two respects. The Minister of Home Affairs is enabled to delegate powers to the Parliamentary Secretary of his Ministry, and it is also provided that the Act of 1922 shall continue in force until Parliament otherwise determines.

Financial Legislation.—The Exchequer and Financial Provisions Act (c. 10) contains a varied collection of provisions bearing upon finance but not entering into the sphere of taxation. An increase from £35,000 to £37,000 is made in the maximum amount of the issues from the Consolidated Fund to the Irish Sailors and Soldiers Land Trust in aid of housing. The financing of the Road Fund (Northern Ireland) is

arranged for on the basis that the fund should receive advances from the Consolidated Fund amounting in the aggregate to £360,000, whilst repayments are to be made out of the Road Fund at the annual rate of £50,000 over a period of seven years. The Act contains a series of technical amendments in the enactments relating to Exchequer borrowing and Government loans. The Ministry of Finance is also enabled to deal with the difficult situation in which the Ministry, in one of its various capacities, might find itself to be investing money in funds under its control in another capacity. Where, in such a case, the Ministry directs that moneys belonging to any fund under its control are to be invested by and in the name of the Solicitor to the Ministry, transactions connected with such investments may be carried out by the Solicitor, or by the Assistant Solicitor to the Ministry in the name and on behalf of the Solicitor. Such investments are to pass to the Solicitor's official successor and are not in the event of the Solicitor's death to constitute assets of the deceased. This provision just falls short of making the Solicitor a corporation sole for limited purposes.

The Exchequer and Financial Provisions (No. 2) Act (c. 24) enables transfers to be made to the Exchequer from several subsidiary funds. Authority is given for such transfers in the case of the Capital Fund (through the Reserve Fund) and the Land Purchase Sinking Fund, in each of which there lay sums in excess of the purposes for which the fund was accumulating. The Exchequer is also enabled to benefit to the extent of surpluses in the Capital Fund No. 2 and the Constabulary Reward Fund. Provision is made that the money required to defray grants for voluntary schools under s. 10 of the Education Act of 1930 may be funded over a period of twenty-five years.

The Finance Act (c. 28) adds to taxation by charging stamp duty upon instruments made for various purposes of the Acts relating to local government and poor relief and previously exempt from that duty. The exempting enactments dated back to the year 1836, in the case of county government, and to the year 1838 in the case of the poor law. These exemptions, however, had been widely extended, not alone by the general effect of later legislation, but also in the course of administrative practice. The Finance Act makes, at the same time, some dispositions more acceptable to the taxpayer. In particular, the law relating to entertainments duty is amended in favour of agricultural shows, so that the exemption which such entertainments enjoy under s. 3 of the Finance Act, 1927, will not be destroyed by reason of the inclusion in the entertainment of attractive (but otherwise taxable) displays such as military "trick-riding." Conformity with Great Britain is secured by reducing from £1 to 10*s.* the *ad valorem* stamp duty payable on registration by companies and limited partnerships; and by declaring an exemption from death duties in favour of securities issued by the United Kingdom Treasury (under s. 22 of the Finance (No. 2) Act, 1931) with a condition that those securities shall be free from taxation whilst held by persons not domiciled nor ordinarily resident in the United Kingdom. The Act includes a provision that Bills of Exchange presented for acceptance, accepted or payable outside the United Kingdom, shall not be invalid by reason of their not being properly stamped in accordance with the law relating to stamp duty in Northern Ireland; this enactment was passed in connexion with the accession of His Majesty's Government to the Geneva Convention of June 7, 1930 (1933 Cmd. 4356).

Legislative Procedure.—A subordinate legislature may often find technical obstacles lurking in its path. For instance, the Government of Ireland Act withheld from the Northern Ireland Parliament the power of making laws in respect of "the property of the Crown (including foreshore vested in the Crown)" and "navigation, including merchant shipping." The course of Private Bill legislation in the new Parliament soon showed that, by reason of these restrictions, such Bills could not validly authorize harbour or other works on or under or over the shore or bed of the sea or of tidal waters, or the carrying out of dredging operations, and the deposit or removal of materials, in or from such places. The power to legislate as regards ferries across tidal waters was for the same reason outside the competence of the Northern Ireland Parliament. The insertion in Private Bills of clauses requiring the consent of the Board of Trade or other Crown Department could not give constitutional validity to the legislation. The obstacle was got over by Westminster enactments—the Northern Ireland (Miscellaneous Provisions) Acts of 1928 and 1932—which bestowed the requisite legislative power upon the Northern Ireland Parliament, whilst making the exercise of the power conditional upon the giving of the departmental consents.

The major difficulty being removed, a minor one emerged in the course of Parliamentary practice at Belfast. The consent of the United Kingdom Departments can, under the Miscellaneous Provisions Act of 1932, be conclusively evidenced by a recital in the Northern Ireland statute to which the consent is given. But the Private Bill authority in the Northern Ireland Parliament came to the reasonable conclusion that a Select Committee could not pass a clause in the Preamble of a Private Bill stating that the consent of the Board of Trade had been given, unless, in fact, such consent had been given in final terms. On the other hand, the Board of Trade took the view that their consent should not be finally given until a Bill had reached a stage at which it could not be altered. These two decisions would, apart from some change in procedure, reduce a Private Bill to the condition of the amphibious animal which, according to a celebrated definition, "cannot live on land and dies in the water." The Bill could not go through the Committee if the Preamble were not proved: whilst, if the Board of Trade consent could not be included in the Preamble, it would be impossible to get conclusive evidence of the consent required for giving constitutional validity to the legislation.

The difficulty was happily resolved by discussion and agreement between the various authorities concerned, both in Great Britain and Northern Ireland. The outcome of the agreement was the Legislative Procedure Act (c. 4) which authorizes the recital of the statutory consent to be inserted in a Bill of the Northern Ireland Parliament independently of the ordinary stages of legislative procedure, if the Clerk of that Parliament certifies that the consent has been given. The recital may appear in the Preamble of a Bill as introduced, or be inserted in the Preamble or amended at any stage of a Bill in either House. But it does not form part of the Bill until the Clerk's certificate is given. This provision enables the Board of Trade consent to be signified at a stage when a Bill is beyond alteration in either House.

The method of legislation by consent is not restricted to Private Bills relating to the reserved subjects above-mentioned, but it also applies in the case of the bankruptcy legislation summarized in this review. In the case of Public General Bills the obtaining of the consent does not,

as a rule, give rise to such difficulty as in the case of Private Bills, because the procedure in the former case more readily admits of communication between the Northern Ireland and the United Kingdom authorities during the various stages in the progress of a Bill through the two Houses.

Administrative Matters.—The Ordnance Survey service had, in the course of a century, undergone various transfers in its administrative wanderings from the Master-General and Board of Ordnance to the Ministry of Agriculture for Northern Ireland. Under the Administrative Provisions Act of 1933 (c. 27) the Survey Branch has had to move once more—to the Ministry of Finance, where it hopes, no doubt, for a permanent abode.

The 1933 Act provides—for the sake of reducing unnecessary expense—that, where a statute requires the presentation of an annual report to Parliament, presentation at intervals of not longer than three years shall be a sufficient compliance with the requirement; it also permits the elimination from reports of particulars which, although statutory, do not serve any useful object at the present time.

The same statute accomplishes some additions to the "Adaptation Orders" made by His Majesty in Council when the Government of Ireland Act was being set in motion and long before the Parliamentary and Administrative Buildings had risen upon the green slopes of Stormont. Thus it is now provided that references to Belfast, where they occur in any adapted enactment, are to be construed as including references to the buildings at Stormont. The Act of 1933 contains also an echo of the period from June 1921 to December 1922, when the Crown was represented by the Lord Lieutenant of Ireland, the office of Governor of Northern Ireland not having been constituted. The Acts passed by the Northern Ireland Parliament during that period contained various references to the Lord Lieutenant, and it is now specifically provided that these references shall be construed as referring to the Governor. The "Adaptation Orders" had made no provision for relieving the Ministry of Finance from the technical necessity of publishing in the *London Gazette* any Orders which it might make under s. 2 of the Public Offices Fees Act, 1879. The statute of 1933 deals with this point by substituting the *Gazette* published in Belfast for the London publication.

In the year 1876 the Harbour of Ardglass in the county of Down was vested by statute in the Commissioners of Public Works in Ireland and those Commissioners became the undertakers for the harbour. There lies within the harbour a dock which was not included in the undertaking which passed to the Commissioners, but when the undertaking was transferred to the Ministry of Commerce for Northern Ireland the dock was taken over by that Ministry from private ownership. The entire undertaking was consolidated by the Ardglass Dock and Harbour Act (c. 14), under which the dock for all purposes forms part of the harbour undertaking, and the Ministry of Commerce may levy tolls for the use of the dock and make by-laws for its regulation.

4. IRISH FREE STATE (SAORSTÁT ÉIREANN).

[*Contributed by* A. Denis Pringle, Esq., *Barrister-at-Law.*]

Public Acts passed—53.

During the year an unusually large number of Acts were passed, but the majority of them were of purely local interest. The following were the Statutes of most general interest passed during the year:

Constitution.—The Constitution of Saorstát Éireann, already altered by no less than nineteen Acts of the Oireachtas, was further amended during the year by four Acts of the greatest importance. The Constitution (Removal of Oath) Act (No. 6) removes entirely from the Constitution Art. 17, which prescribed the form of oath to be taken by members of the Oireachtas in the following terms: "I . . . do solemnly swear true faith and allegiance to the Constitution of the Irish Free State as by law established, and that I will be faithful to H.M. King George V, his heirs and successors by law in virtue of the common citizenship of Ireland with Great Britain and her adherence to and membership of the group of nations forming the British Commonwealth of Nations." By s. 3 of the same Act, Art. 50, which dealt with the manner in which amendments within the Scheduled Treaty may be made, is amended by deleting the words "within the Scheduled Treaty." Act No. 40 amends Art. 37 of the Constitution so as to read "money shall not be appropriated by vote, resolution or law, unless the purpose of the appropriation has in the same session been recommended by a message from the Executive Council signed by the President of the Executive Council" instead of, as formerly, by a message from the Representative of the Crown acting on the advice of the Executive Council. Act No. 41 removes from the Constitution that part of Art. 41 which reserves the right of the representative of the Crown to withhold the King's assent or to reserve a Bill for the signification of the King's pleasure. The Constitution (Amendment No. 22) Act (No. 45) deals with the vexed question of the right of appeal from a decision of the Supreme Court to the Privy Council. Art. 66 of the Constitution contained the following words: "Provided that nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave," but for a number of years this right had been rendered valueless owing to the refusal of the Government of Saorstát Éireann to recognize decisions of the Privy Council as of any binding effect. This policy is brought to its logical conclusion by the deletion from the Article of this proviso. The Act also (by s. 2) prohibits the further proceeding of an appeal or petition for leave to appeal, even though same may have been instituted before the passing of the Act.

Finance.—The Finance Act (No. 15) continues income-tax at 5*s.* in the £, and surtax as before is payable on all incomes of over £1,500 per annum. The Revenue Commissioners are empowered by s. 2 to grant further relief in respect of certain persons resident in both Saorstát Éireann and Great Britain. A large number of imported goods are made subject to customs duties, such varied articles as mattresses, footballs, statues, gold rings, soap, illuminated advertising signs, weighing scales, and fruit being included. New duties are also imposed on heavy oils, daily newspapers, matches, and mops. S. 19 exempts from the entertainments duty entertainments promoted by the Irish Amateur Boxing Association, the Badminton Union of Ireland, the Irish Lawn Tennis Association, the Irish Amateur Swimming Association and the Irish Amateur Rowing Union.

S. 44 provides that documents of the High Court claiming fines, penalties or forfeitures in connexion with Revenue taxes or duties may, by leave, be served on a person resident in Great Britain as if he were resident elsewhere (outside Saorstát Éireann) than in Great Britain.

Land Laws.—The Land Act (No. 38) carries a step further the Land Purchase Code. Under Part II of the Act an Appeal Tribunal is set up, presided over by the Judicial Commissioner, for the purpose of hearing appeals from the Land Commissioners on certain specified matters. Part III deals with arrears of Land Purchase annuities and provides that annuities accruing after the first gale day of 1933 shall be reduced, in the case of annuities payable under the Land Act, 1923, or later Acts by 55 per cent., and in the case of other annuities by 50 per cent. Provision is made for the fixing of " revised annuities " and " funding annuities." S. 28 is of particular interest, as it provides a new method by which the Land Commission may recover annuities or other sums due to it. The Land Commission is empowered to issue to a county registrar a warrant on which the latter can proceed to levy execution for the amount stated therein. Prior to this provision an order of a competent court was necessary before any such levy could take place. The Land Commission is given widely increased powers to acquire land compulsorily for the relief of congestion or for the purpose of resale. S. 39 provides that " mill holdings " may be brought within the provisions of the Land Purchase Acts, and by s. 46 land having potential or actual building value shall not be excluded unless it has been both resumed and built on before June 28, 1933. The Land Commission must deduct debts due to the State of which it has notice from the purchase money of lands payable to any person not resident in Saorstát Éireann (s. 53). An interesting fact about this Act is that the Act, as published by the Stationery Office, does not contain the usual, or any, words of enactment, a matter which has been referred to in several legal proceedings, but on which there has not, as yet, been any judicial decision.

Damage to Property.—An Act of some interest is the Damage to Property (Compensation) (Amendment) Act (No. 35), which amends the law in relation to claims for damage to property and injurious acts which took place during the Anglo-Irish and Civil Wars. Under the earlier Act passed in 1923 certain persons were excluded as, for instance, sympathizers with those in armed opposition to the State and persons who could not prove that their property was taken away without their consent. Under this Act such persons can lodge claims and obtain compensation. An award can also be obtained by persons whose property was injured or whose goods were taken away by State forces.

Road Transport.—The Road Transport Act (No. 8) is expressed to be " an Act to make further and better provision for the regulation and control of the carriage of passengers, merchandise and mails by road." Provision is made prohibiting after a certain date the carrying of merchandise as a business (except within a certain radius of cities or large towns) by any person who has not a licence to do so. All licensed carriers must carry a vehicle plate. Part III deals with charges for the carriage of merchandise which are to be regulated by the Railway Tribunal. Somewhat similar provisions are contained in the Act with reference to the carriage of passengers.

Road Traffic.—The Road Traffic Act (No. 11) is the longest statute of the year, containing no less than 179 sections. It follows to a large extent similar legislation in Great Britain, dealing as it does with licences to drive mechanically propelled vehicles, speed limits, compulsory insurance, certificates of competency and fitness, the regulation and control of public service vehicles and the regulation of traffic. Sections which deserve

special notice are: s. 54, which makes it an offence for the owner of an omnibus to instruct a driver to observe a time-table where such time-table is so framed that the driver could not observe it without driving at a speed which would exceed the speed limit; s. 150, which empowers the Commissioner of the Garda Siochana to prescribe parking places for motor vehicles; s. 156, which makes it an offence for a cyclist to hold on to any other vehicle in motion without the consent of the rider or driver of such vehicle; s. 165, which makes the using, driving or taking possession of a mechanically propelled vehicle without the consent of the owner or other lawful authority an offence; s. 169, which prescribes limitations on periods of continuous driving; s. 170, which makes the Minister for Finance civilly liable for the negligent driving of a mechanically propelled vehicle owned by the State; s. 171, which extends the liability of a person for negligent driving to his real and personal estate after his death; s. 172, which prescribes that a person driving a vehicle with the express or implied consent of the owner shall be deemed, in so far as he acts within the terms of the consent, to be the servant of the owner, and s. 174, which entitles hospitals in which injured persons are treated to be reimbursed by the person liable for the expense of such treatment.

Railways.—The Railways Act (No. 9) was passed mainly for the purpose of dealing with the reconstruction of the capital of the Great Southern Railways Company, involving the reduction of the debenture, preference and ordinary stock of the company, the reductions being as follows: £100 4 per cent. Debenture Stock to £85, £100 4 per cent. Guaranteed Preference Stock to £50, £100 4 per cent. Preference Stock to £35, and £100 Ordinary Stock to £10. The Act also remits certain debts due by the company to the State, and deals with the discontinuance of train services where road transport is considered more economical. S. 14 empowers a railway company, by order of the Minister for Industry and Commerce, to engage in air transport.

Unemployment.—The Unemployment Assistance Act (No. 46) is of considerable importance, providing as it does for the relief of unemployed persons who do not come within the provisions of the Unemployment Insurance Acts, for instance persons engaged in agricultural or domestic employment. In order to be in a position to apply for unemployment assistance the applicant must be the holder of a qualification certificate issued by an unemployment assistance officer, subject to a right of appeal to the Unemployment Appeals Committee. In order to obtain a qualification certificate a person must be a national of Saorstát Éireann between the ages of eighteen and seventy, and must show that his or her means do not exceed the prescribed amount. A person is disqualified from receiving assistance under the Act while he is resident outside Saorstát Éireann, undergoing imprisonment, or in receipt of an old age pension, or benefit under the National Health Insurance or Unemployment Insurance Acts (s. 16). The rates of assistance prescribed in the Schedule to the Act vary from 20s. a week in the case of a man with a dependent wife and five or more other dependents residing in a county borough, to 5s. a week in the case of a widow or spinster with no dependent.

Foreshores.—The Foreshore Act (No. 12) entitles the Minister for Industry and Commerce to make leases or grant licences of the foreshore and to prohibit the removal of beach material from the seashore. He is also empowered to make regulations respecting the public use of the foreshore and the erection or removal of structures thereon.

Musk Rats.—The Musk Rats Act (No. 16) makes provision for the control of the importation and keeping of musk rats and other destructive non-indigenous animals and for the extermination of any such animals which are at large.

Merchant Shipping.—Two Acts dealing with merchant shipping were passed during the year. The first (No. 29) gives effect to draft conventions adopted by the General Conference of the International Labour Organization of the League of Nations relating respectively to unemployment indemnity in case of loss or foundering of the ship, the minimum age for the admission of young persons as trimmers, and the compulsory medical examination of children and young persons employed at sea. The second (No. 42) gives effect to the provisions of an International Convention for the Safety of Life at Sea and of an International Load Line Convention, both of which were signed in London.

Sea Fisheries.—The further and better protection of the sea fisheries of Saorstát Éireann is effected by the Sea Fisheries Protection Act (No. 53). The Minister for Lands and Fisheries is empowered (by s. 4) to make by-laws prohibiting certain methods of trawling. Sea Fisheries Protection officers are given certain powers in reference to the boarding and detention of sea-fishing boats in connexion with offences under the Act.

Agriculture.—The encouragement of the growing of cereals is the object of the Agricultural Produce (Cereals) Act (No. 7), which deals with the control and regulation of wheat milling, and the providing of subsidies and bounties for the growing of wheat and the milling of home-grown wheat.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* FREDERICK READ, ESQ., LL.B., *Professor of Law, Manitoba Law School.*]

Acts passed—92; Public—55; Local and Private—13; Divorce—24.

The Fourth Session of the Seventeenth Parliament began on October 6, 1932, and closed by Prorogation on May 27, 1933.

Banks.—C. 23 continues the Charters of the several chartered banks until July 1, 1934.

Companies' Creditors Arrangements.—C. 36 provides a scheme for the carrying into effect of a compromise or arrangement proposed between a debtor company and its creditors, secured and unsecured, by means of a summary application to the court by the company or a creditor or the trustee in bankruptcy or liquidator of the company. A majority in number representing three-fourths in value of the creditors, or class of creditors, as the case may be, present and voting, either in person or by proxy, at the appropriate meeting, is required to agree to any compromise or arrangement in order that the court may sanction the scheme. When sanctioned, the compromise or arrangement is binding on the creditors, the company, the trustee, the liquidator and contributories of the company. The provisions of the Act are in extension and not in limitation of the provisions of any instrument now or hereafter existing governing the rights of creditors or any class of them, and is to have full force and effect

notwithstanding anything to the contrary contained in any such instrument. The provisions of the Act may also be applied conjointly with the provisions of any Act of the Dominion of Canada or of any province, authorizing or making provisions for the sanction of compromises or arrangements between a company and its shareholders or any class of them. The Act applies to any company or corporation incorporated by or under the authority of any Act of the Parliament of Canada or any province of Canada and any incorporated company having assets or doing business in Canada, wheresoever incorporated, except banks, railway or telegraph companies, insurance companies, and trust companies organized under or governed by the Trust Companies Act and loan companies organized under or governed by the Loan Companies Act. Whenever any application is made under c. 36, the court may stay proceedings against the company under the Bankruptcy Act or the Winding-Up Act and in any action, suit or proceeding against the company.

Criminal Code.—By c. 25 the Criminal Code has been amended to provide more stringent restrictions in respect to the unlawful possession of offensive weapons and to provide for the general registration and issue of permits in respect to the possession of pistols, revolvers and other fire-arms. Further amendments have also been made to the Criminal Code by c. 53. The definition of " prize fight " is amended by providing that any boxing contest where both the contestants wear boxing gloves of not less than five ounces each in weight, between amateur sportsmen, or held with the permission or under the authority of any athletic board or commission or like body set up by the legislature of any province for the control of sport within such province, shall not be deemed a prize fight. Amendments are also made in reference to various other offences and the jurisdiction of courts to try such offences.

Customs and Excise.—C. 6 amends the Customs Tariff respecting a large number of articles too numerous to mention here. The Act is deemed to have come into force on October 13, 1932. C. 43 repeals S.C. 1930, c. 2, s. 4, and substitutes a new subsection 1 to s. 43 of the Customs Act. It enacts that if it appears to the satisfaction of the Governor in Council on a report of the Minister that goods of any kind not entitled to entry under the British preferential tariff or any lower tariff are being imported into Canada either on sale or on consignment, under such conditions as prejudicially or injuriously to affect the interests of Canadian producers or manufacturers, the Governor in Council may authorize the Minister to fix the value for duty of any class or kind of such goods, and notwithstanding any other provision of the Customs Act, the value so fixed shall be deemed to be the fair market value of such goods.

C. 8 amends the Excise Act in respect to the duty on spirits made from malted or unmalted grain, sugar, syrup, molasses or other saccharine matter, and in respect to abatements for shrinkage by evaporation while maturing and the duties on cigarettes made from raw leaf tobacco or any substitute therefor, weighing not more than three pounds per thousand. The Act is deemed to have come into force on October 13, 1932.

The Customs Tariff is amended by c. 37 in many respects ; and under c. 38, which amends the Customs Act, " value for duty " is defined as the value of the article as it would be determined for the purpose of calculating an *ad valorem* duty upon the importation of such article into Canada under the laws relating to the Customs and the Customs Tariff whether such article be in fact subject to *ad valorem* duty or other duty or not.

Permission may be given by the collector for lightening a vessel and unloading goods on a statutory holiday other than a Sunday, after sunset and before sunrise, or at a place other than a port. Such unloading must be done in the presence of an officer detailed for such service and under such conditions and upon such terms as the Minister may authorize or prescribe. Provision is also made for boarding and searching any vessel in territorial waters and any person, trunk, package or cargo on board. A new section is substituted for s. 208, so that the section now relates to the seizure and forfeiture of prohibited or smuggled goods, the vessel in which they are found and to goods not included in the manifest. The section no longer specifically relates to vehicles in which prohibited or smuggled goods are found. The master or person in charge of the vessel and any other person concerned in the breach or violation of the Act are liable to the penalties set out in the new section.

The Excise Act is amended by c. 40, whereby provision is made respecting the trial of offenders under the Act, the disposition of penalties and forfeitures, the conditions under which licences will be granted, duties and abatements on spirits, the bottling of spirits in bond, and penalties for infractions of the Act.

Dominion Notes.—C. 12 empowers the Governor in Council, from time to time and for such period or periods as he may deem desirable, to suspend the operation of the provision in the Dominion Notes Act, that Dominion notes are to be redeemable in gold.

Elections.—C. 54 recites that the results of the census of 1931 necessitate a readjustment of the representation in the House of Commons, pursuant to the provisions of the B.N.A. Act, 1867, and the other statutes in that behalf. Accordingly, the Act provides that the House of Commons shall consist of 245 members, of whom 81 shall be elected for Ontario, 65 for Quebec, 12 for Nova Scotia, 10 for New Brunswick, 17 for Manitoba, 16 for British Columbia, 4 for Prince Edward Island, 21 for Saskatchewan, 17 for Alberta, and 1 for the Yukon Territory. For the purpose of election of members to serve in the House of Commons, the provinces and the territory are divided into electoral districts and are to be represented as provided in the Schedule to the Act.

Extraterritorial Operation of Statutes.—S. 3 of the Statute of Westminster, 1931, gives to the Parliament of a Dominion, as defined in the statute, power to make laws having extraterritorial operation. C. 39 provides that every Act of the Parliament of Canada now in force enacted prior to December 11, 1931, which in terms or by necessary or reasonable implication was intended, as to the whole or any part thereof, to have extraterritorial operation, shall be construed as if at the date of its enactment the Parliament of Canada then had full power to make laws having extraterritorial operation as provided by the Statute of Westminster. It will be interesting to see just how far, if at all, the Statute of Westminster will be held to have any retroactive operation in this regard.

Finance.—C. 43 empowers the Governor in Council (in addition to the sums now remaining unborrowed and negotiable of the loans authorized by Parliament by any Act theretofore passed) to raise by way of loan under the provisions of the Consolidated Revenue and Audit Act, by the issue and sale or pledge of securities of Canada in such form and upon such terms and conditions as the Governor in Council may approve, such sums as may be required, not to exceed in the whole $750,000,000, for paying or redeeming the whole or any portion of loans or obligations of

Canada ; and also for purchasing and withdrawing from circulation from time to time unmatured securities of Canada, and for public works and general purposes. The principal raised by way of loan under this Act and the interest thereon are a charge upon the Consolidated Revenue Fund.

In addition to authorizing certain specified sums to be paid out of the Consolidated Revenue Fund, c. 55 authorizes the Governor in Council (in addition to the sums at the time of the passing of c. 55 remaining unborrowed and negotiable of the loans authorized by Parliament by any Act theretofore passed) to raise by way of loan under the provisions of the Consolidated Revenue and Audit Act, 1931, by the issue and sale or pledge of securities of Canada in such form and upon such terms as the Governor in Council may approve, such sums as may be required, not to exceed in the whole $200,000,000, for public works and general purposes. The principal raised by way of loan under this Act and the interest thereon are a charge upon the Consolidated Revenue Fund.

Grain.—The Canada Grain Act is amended by c. 9, by substituting a new s. 134, in place of that section as it appeared in S.C. 1930, c. 5. The new section provides that the tariff of charges made for the cleaning, storage and handling of grain in any public or semi-public terminal or eastern elevator shall not be subject to change during any crop year except by order or regulation of the Board.

The Canada Grain Act is further amended by c. 24. The amendments provide that the Board may make regulations and orders in regard to terminal warehouse receipts, eastern warehouse receipts and transfer receipts. The Board may for the purpose of ensuring the orderly dispatch of grain except any elevator located at a seaport from the operation of s. 103. The last-mentioned section provides that no operator or manager of any licensed public or semi-public elevator shall discharge out of the elevator any grain of which he is not the owner except when the manager of such elevator is the owner of a part interest in the grain and his co-owners have authorized him to discharge the grain from the elevator in the manner in which the same is in fact discharged. The provisions of ss. 126, 127, 128 and 129 relating to elevator receipts now apply to eastern elevators and eastern warehouse receipts.

Indians.—C. 42 amends the Indian Act in respect to truant officers, the removal by the Superintendent-General of executors of an estate who neglect or refuse to carry out the terms of the will and the appointment of new executors, the conditions under which trading with Indians shall be carried on in the Prairie Provinces and the Territories, the power of the Superintendent-General to determine where roads shall be established on a reserve, the power of the chiefs of any band of Indians to make regulations respecting the operations of hawkers, pedlars or others coming on the reserve to sell, or take orders for, wares or merchandise, the power of the Superintendent-General to appoint a board of inquiry as to fitness of Indians for enfranchisement, the penalty for the unlawful occupation or use of, or hunting upon any reserve, and the power of the Council with the approval of the Superintendent-General to make regulations regarding the operations of hawkers, pedlars or others coming on the reserve to sell, or take orders for, wares or merchandise. S. 140 is amended so as to make it an offence for an Indian in the Prairie Provinces or British Columbia, or the Territories to take part in an Indian dance outside the bounds of his own reserve, or to participate in any show, exhibition, per-

formance, stampede or pageant, whether in aboriginal costume or not, without the consent of the Superintendent-General or the authorized agent, and the person inducing the Indian to offend in this manner is liable to the penalty set out in the section.

Insurance.—The Act S.C. 1932, c. 46, respecting Canadian and British insurance companies is amended (c. 32) by allowing investment of a company's funds in the purchase of bonds or debentures of certain corporations on which the interest is guaranteed by the Dominion or Province.

Migratory Birds.—The Migratory Birds Convention Act is amended by c. 16 by providing that a regulation is to take effect from the date of its publication in the *Canada Gazette* or from the date specified for such purpose in any regulations, and the regulation is to be laid before both Houses of Parliament within fifteen days after the publication of the regulation if Parliament is then sitting, and if Parliament is not then sitting then within fifteen days after the opening of the next session thereof. All members of the R.C.M.P. are, for the purpose of the Act, *ex-officio* game officers. No person, without lawful excuse, the proof of which shall lie on such person, is to buy, sell or have in his possession any migratory game bird, migratory insectivorous bird or migratory non-game bird, or the nest or egg of any such bird or any part of any such bird, nest or egg during the time when the capturing, killing or taking of such bird, nest or egg is prohibited by the Act.

Nationals, and Commercial and Shipping Matters.—C. 30 approves the Convention between Canada and France concerning the rights of nationals and commercial and shipping matters, which was entered into on May 12, 1933.

Postal Rates.—The Post Office Act is amended by c. 46 by providing that the advertising portion of newspapers and periodicals referred to in s. 23(3) of the Post Office Act when the space devoted to advertisements exceeds 50 per cent. of the total space, shall be subject to postage at the rate of four cents for each pound weight or any fraction of a pound weight.

Radio.—The Canadian Radio Broadcasting Act is amended by c. 35, permitting the Commission to fix the salaries of officers of the Commission. Clerks and all other employees of the Commission are to be appointed pursuant to the Civil Service Act. The Commission has power to acquire existing private stations and to construct new stations, subject to the approval of the Governor in Council, instead of the approval of Parliament, as required by the 1932 Act. In addition to the moneys appropriated by Parliament, the Commission may expend, for the purposes of the Act, money received by the Commission from any business carried on by it under the Act, the moneys appropriated to the Commission by Parliament not to exceed the estimated revenue from receiving licences, private commercial broadcasting licences and amateur broadcasting licences. The Commission is required to present to the Minister of Finance annually an estimate of the expenditure proposed to be made by it during the fiscal year. This amending Act expires on April 30, 1934.

Railways.—C. 33 empowers the Governor in Council to vacate all nominations heretofore made to the Board of Directors of the National Company and to appoint in the place of and in succession to the incorporators of that company three trustees with the powers specified in the Act now under review. One of the trustees is to be the chairman and is to devote the whole of his time to performance of the duties of his office, and is not to be an officer, nor after his appointment as trustee become,

otherwise than by re-election, a director of any company other than a company which is comprised in National Railways. The trustees, other than the chairman, must devote to the performance of the duties of their office their whole or part time as may be determined by the Governor in Council. The chairman is appointed for a term of five years, and each of the other trustees for such term of less than five years as the Governor in Council shall specify. The scheme outlined by the Act is in due time to substitute the trustees for the Boards of Directors of all the Canadian companies comprised within the National Railways, with corresponding power to operate and control the railways. Provision is also made for prospective agreements between the National and Pacific companies with a view to providing for more remunerative operation of the respective lines. The Act does not, however, authorize the amalgamation of any railway company which is comprised in the National Railways with any railway company which is comprised in the Pacific Railways, nor authorize the unified management and control of the National and Pacific Railway systems.

C. 34 empowers the Canadian National Railway Company to issue notes to meet expenditures during 1933, viz. for equipment, not exceeding $12,265,583.63, for construction and betterments, not exceeding $5,993,121.00. The aggregate principal amount of the notes at any one time outstanding is not to exceed $13,058,604.63, being the total of the items mentioned above less $5,200,100, to be provided out of the working funds of the company. The Minister of Finance may also make loans to the company not exceeding the sum of $13,058,604.63 (for refunding and capital expenditures) and also during the fiscal year 1933–34 a sum not exceeding $47,941,395.37 on account of net income deficits.

The Railway Act is amended by c. 47 by providing that a company may abandon the operation of any line of railway with the approval of the Board, but no company is to abandon the operation of any line of railway without such approval.

Relief.—The prolonged world-wide economic depression having retarded the return to normal economic conditions in Canada, legislation was passed to cope with the situation. With a view to assisting the Provinces in carrying out necessary relief measures and to meet financial conditions as the same may arise, c. 18 empowers the Governor in Council to enter into agreements with any of the Provinces respecting relief measures therein, to grant financial assistance to any Province or corporation by way of loan, advance or guarantee, and to take such measures as may be deemed necessary or advisable to protect and maintain the credit and financial position of the Dominion or any Province thereof. In particular power is given to provide for special relief works and undertakings in the National Parks in Canada and elsewhere, and to assist in defraying the cost of the sale and distribution of the products of field, farm, forest, sea, river and mine.

The amount to be paid for direct relief for the fiscal year ending March 31, 1934, is not to exceed $20,000,000. A report is to be laid before Parliament within fifteen days after the expiration of the Act, or if Parliament is not then in session, the report is to be published and made available for distribution by the Department of Labour. The report is to contain a full and correct statement of the moneys expended, guarantees given and obligations contracted under the Act, which expires on March 31, 1934.

Senate.—The Senate and House of Commons Act is amended by c. 48. S. 21 of that statute enacts that no senator is knowingly or wilfully to be a party to or be concerned in any contract under which the public money of Canada is to be paid. C. 48 provides that this shall not render any senator liable for the penalties mentioned in the section by reason of his being, or having been, a contractor for the loan of money or of securities for the payment of moneys to the Government of Canada under the authority of Parliament after public competition, or by reason of his being, or having been, a contractor respecting the purchase or payment of the public stock or debentures of Canada on terms common to all persons.

Shipping.—By c. 10 the Montreal Harbour Commissioners may make by-laws for the regulation of all plant, machinery or appliances, whether floating or not, for loading or unloading vessels, including the power to prescribe that none shall enter the harbour or remain in it without permission of the Commissioners and also the power to levy a rate or sum of money thereof for the privilege of operating in the harbour, and to regulate and control charges for such services.

C. 52 amends the Canada Shipping Act in several respects.[1]

Tariff Board.—The Tariff Board Act is amended by c. 51, by providing that if a member who has served for a period of ten years is, on completion of such period, of the age of 64 years or over, he may be granted an annuity equal to one-half of the annual salary of such member. The salary of the chairman of the Board is raised to $15,000 per annum, the salary of each of the other two members of the Board remaining at $10,000 per annum. The Act takes effect as from February 6, 1933.

Trade Agreements.[2]—C. 2 approves the trade agreement of August 20, 1932, entered into between Canada and the United Kingdom, and empowers the Governor in Council to make such orders and regulations as are deemed necessary to carry out the provisions and intent of the Act and of the agreement. Cc. 3, 4 and 5 similarly approve of the trade agreements respectively entered into on August 20, 1932, between Canada and the Union of South Africa, the Irish Free State and Southern Rhodesia. Under c. 5, during the currency of the agreement goods the produce or manufacture of Southern Rhodesia conveyed, without transhipment, from a port of any British country enjoying the benefits of the British preferential tariff, or any lower tariff, or from the nearest seaport accessible to Southern Rhodesia, into a sea, lake or river port of Canada, are to be admitted into Canada at the rates of duties provided in the agreement.

C. 31 approves the trade agreement between Canada and France, entered into on May 12, 1933.

C. 44 empowers the Governor in Council, by proclamation, to extend the duration of the trade agreement made between Canada and New Zealand, dated April 23, 1932, and approved by Parliament by S.C. 1932, c. 34, which came into force on May 24, 1933, for such period beyond May 24, 1933, being the date of the termination of the agreement, as may be agreed upon between Canada and New Zealand.

Visiting Forces.—C. 21 makes provision with respect to forces of His Majesty from other parts of the British Commonwealth, or from a colony, when visiting Canada, the exercise of command and discipline when forces of His Majesty from different parts of the Commonwealth are serv-

[1] But see the new Canada Shipping Act, S.C. 1934, c. 44.
[2] See also Nationals, *supra*.

ing together, the attachment of members of one such force to another such force and with respect to deserters from such forces. Under this Act when a visiting force is present in Canada, the service courts and service authorities of that part of the Commonwealth to which the force belongs may exercise within Canada in relation to members of such force, in matters concerning discipline and the internal administration of such force, all such powers as are conferred upon them by the law of that part of the Commonwealth; and provision is made for local assistance in carrying out the orders of the service courts and service authorities. Special provision is made in respect to deserters and absentees from the naval, military and air forces of His Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State or Newfoundland, and in regard to temporary attachments to the respective forces. The Act provides for mutual power of command when forces are serving together or in combination; and it also applies to mandated territories, to colonies and to territory which is being administered by His Majesty's Government in the United Kingdom or by His Majesty's Government in a Dominion. As regards any naval force and the members of any such force, the provisions of the Act are to be deemed in addition to and not in derogation of such of the provisions of any Act of the Parliament of the United Kingdom or of the Parliament of any other part of the Commonwealth as are for the time being applicable to that force and the members thereof.

2. ALBERTA.

Public and General—59; Local and Private—6.

The synopsis of important acts prepared each year by the Clerk of the Executive Council, Mr. J. D. Hunt, contains a novel feature. On the title page is printed the following lines:

> "Twixt failure and success the point's so fine,
> Men sometimes know not when they touch the line.
> Then take this honey from the bitterest cup;
> There is no failure save in giving up;
> No real fall as long as one still tries,
> For seeming setbacks make the strong men wise.
> There's no defeat in truth save from within,
> Unless you're beaten there, you're bound to win."

There is nothing to suggest any particular application to the legislation for the session, of which the following notes are extracted from the synopsis:

Debt Adjustment.—No. 13 is a consolidating Act covering the whole law constituting a board to assist the farmers in their financial difficulties by bringing about an amicable arrangement with their creditors for the payment of the resident farmers' indebtedness.

Seizures.—No. 16 is another consolidating measure which gathers under one heading the law relating to seizures whether made under any process in the nature of a writ of execution or under a distress warrant.

Public Utilities.—No. 18 gives the Board of Public Utility Commissioners the power to make inquiries into matters relating to the production, handling and distribution of milk. If it appears to the Board that milk supplied in any part of the Province is likely to be interrupted or impaired in quality to any extent affecting the public health or convenience the

Board is given power to make regulations and to prescribe the area or areas in which such regulations shall have effect and to provide for the supervision of the production and sale of milk and of operations incidental thereto ; license milk dealers ; regulate the production, reception, handling, storing and delivering of milk ; classify milk producers, distributors and dealers and to establish schedules of minimum prices.

Upon it being made to appear to the Lieutenant-Governor in Council that any food product grown, produced, processed or manufactured in Alberta is being offered for sale by retail in Alberta at a price so low as to be calculated to jeopardize the continuity or sufficiency of the supply thereof, or to embarrass the legitimate operations of persons engaged in the production, processing, manufacture or distribution thereof, or to dislocate the prices to the producer ordinarily prevailing for any product in the ordinary markets therefor, the Lieutenant-Governor in Council may direct the Board to inquire into the circumstances of the production, marketing, processing, manufacture and distribution of any such product for the purpose of fixing a minimum price at which such product may be retailed, and thereupon the Board, after making such inquiry, shall have the same powers in respect of any plant, premises, equipment, service or organization for the distribution and retail sale of that product as if the same were a public utility within the meaning of this Act.

Any person who retails any commodity in respect of which a minimum price shall have been prescribed by any order of the Board under this section at a price lower than the minimum price so prescribed shall be guilty of an offence and shall be liable upon summary conviction therefor to a penalty of not more than $250 and costs per day for every day during which any product has been so sold by him.

Assessment.—The following property is added by No. 22 to the exemption list from assessment for taxation for education rate.

The land to the extent of twenty-five acres held by or for the use of any hospital which receives a Government Grant.

Premises owned by any branch or local unit of the Canadian Legion, the British Empire Service League, the Army and Navy Veterans Association and any other organization of return soldiers, used exclusively for the purposes of that branch or local unit from time to time approved by the Minister.

Arrears of Taxes.—Act No. 28 provides that where a taxpayer has been in arrear for more than one year in respect of taxes, he may enter into a consolidation agreement whereby the arrears are payable by instalments as follows :

For 1933, 10 per cent. ; for 1934, 10 per cent. ; for 1935, 15 per cent. ; for 1936, 20 per cent. ; for 1937, 20 per cent. ; for 1938, 25 per cent.

The instalments must be paid on or before December 15 in each year and the current taxes must be paid on or before that date.

Upon payment of the instalments on or before the date fixed for payment, a discount by way of a credit is allowed on each instalment paid, varying from 9 per cent. if the taxes consolidated are for a period of less than three years and more than one year, to 26 per cent. if the consolidated taxes are for a period of six years or more. In case the arrears comprise any hail insurance rates the proportion of the instalments attributable to such rates is not subject to discount but shall bear interest at 5 per cent. from January 1, 1933, and the Treasurer shall allow such discount not in

excess of 10 per cent. upon payments made in respect of such taxes as may be from time to time fixed by the Hail Insurance Board.

The entering into of a consolidation agreement stops all proceedings under the Tax Recovery Act until default is made.

3. BRITISH COLUMBIA.

Acts passed—80: Public—74; Private—6.

Supreme Court.—An amendment of the Supreme Court Act (c. 12) empowers the court, after a decree of dissolution or nullity of marriage, to inquire into existing marriage settlements and to order the application of the settled property for the benefit of the parties to the marriage or their children.

Fruit Inspection.—Such provisions of the Act of the Dominion Parliament respecting the inspection of fruit as are within the legislative competence of the Province and outside that of the Dominion are by Act of the Provincial Legislature (c. 22) given the force of law in the Province.

Hospitals Aid.—A tax of 5 per cent. on the price of all meals amounting to 50 cents or more consumed in any hotel or restaurant is imposed on the consumers by c. 27, the proceeds to be applied in aid of hospitals throughout the Province. Restaurant-keepers are made agents of the Crown for the purpose of collecting the tax.

Public Libraries.—Provision is made by an amendment of the Public Libraries Act (c. 33) for the creation of union library districts by agreement between the governing bodies of two or more municipalities or rural school districts or by plebiscite vote of the ratepayers. A union library so established is to be maintained by taxation within the district and all residents in the district are entitled to free use of the main library and branches.

Lode and Placer Mines.—By amendments to the Mineral Act and the Placer-mining Act (cc. 39, 40) better methods of locating and marking mineral claims and placer leaseholds are established. The legislation was opportune in view of the impetus given to mining through the increased prices prevailing for the precious metals.

Powers of Attorney.—A new Powers of Attorney Act was enacted (c. 53) providing for protection of an attorney acting in good faith without knowledge of the revocation of the power, and for protection to those dealing with the attorney without knowledge of the revocation. Power is given to corporations to appoint attorneys for any specified matter or purpose.

Sexual Sterilization.—An Act was passed (c. 59) creating a Board of Eugenics to which the superintendent of any provincial mental hospital or industrial school may submit the case of any inmate about to be discharged therefrom who, if discharged without being subjected to an operation for sexual sterilization, would be likely to beget or bear children having by reason of inheritance a tendency to serious mental disease or deficiency. The Board is given power to order an operation to be performed, subject to the consent of the inmate if capable of giving consent, or otherwise of the husband, wife, parent, or guardian of the inmate.

Vital Statistics.—By revision and re-enactment of the Vital Statistics Act (c. 73) improved provisions are made for ensuring the registration of all births, deaths and marriages.

4. MANITOBA.

[*Contributed by* J. C. COLLINSON, ESQ., K.C., *Legislative Counsel.*]

Ten pieces of legislation are consolidating Acts.

Municipal.—C. 57 brings together all the statute law relating solely to municipal institutions other than assessment. The result has been the repeal of some fourteen Acts of general application and twenty-six Acts and parts of Acts of a local character, having to do largely with municipalities in the Greater Winnipeg area. With a view to an orderly arrangement of the material the Act is divided into eleven parts and the parts have been further divided into divisions. Starting with the creation and organization of municipal corporations, the parts cover elections, composition and structure of councils, municipal property, finances and audit, local improvements, special utilities and services, legislative powers, and lastly, judicial and other proceedings by and against municipal corporations.

Changes, involving principle, are the introduction at the option of the corporation of proportional representation elections, the power to appoint a municipal manager, machinery for obtaining possession of land adversely held, a simplified procedure for opening and closing highways and drains, the limitation upon the yearly borrowing power of the corporation for current expenses, the supervision of all borrowing, not repayable within the year, by the Municipal and Public Utility Board, the power to raise by taxation an earmarked fund to be laid out in the future for improvements and other service purposes, establishing a uniform method of dealing with all local improvements, the power of zoning areas, and the procedure to facilitate a municipal corporation in the recovery of its debts, particularly debts relating to hospitalization and relief. Of some interest to lawyers might be mentioned s. 942, limiting processes by execution against a municipal corporation to a levy on the ratepayers.

Animal Husbandry.—By c. 1 some thirteen statutes are dealt with. In view of the Animal Contagious Diseases Act (Dominion) it was thought advisable to repeal wholly the Manitoba Act dealing with the same subject, also the Settlers' Animal Purchase Act which authorized what is commonly known as the Winkler Cow Scheme and which has become obsolete except for the collection of the debts due to the Crown under an Act relating thereto. The much-scattered statute law relating to stray animals is brought together under Part I. Attention is drawn to s. 25, which does away with scienter in respect of dogs. The confusion existing regarding the right of action against a municipality for sheep killed by dogs is thought to be cleared up under Part II.

Appeals.—C. 6 and the amendments respecting appeals to the County Courts Act (c. 7) and the Surrogate Courts Act (c. 9) are the work of a committee of the Manitoba Bar Association and, as a considerable change is made in the practice, should be studied by every lawyer.

Evidence.—Of special interest to the profession is the Manitoba Evidence Act (c. 11), by which four statutes, including the Conveyancers Act, are repealed. Attention is directed to s. 6 relating to incriminating questions; s. 11 to the mode of administering oaths; s. 15 relating to the validity of an oath, the deponent having no religious belief; s. 25, judicial notice of certain laws and statutes; and s. 27, proof of handwriting and official position presumed. Under s. 51 certain persons, including barristers-at-law and attorneys-at-law, are authorized to take oaths *ex officio*, in

which case they shall designate their office below their signature to the jurat. Under Part II a change has been made in the appointment of commissioners now known as Commissioners for Oaths. The appointment is for two years only, the commission of existing commissioners running until the end of the present year. Each commission may be renewed on payment of the prescribed fee. Under Part III notaries are appointed for a term of two years, when their commission must be renewed, except in the case of barristers and attorneys. The power of a notary to do acts of conveyancing has been dropped, but the power given to a notary prior to April 1, 1915, is preserved to notaries appointed before that date. Under Part V the power to appoint commissioners for public inquiries has been extended to include election matters and the affairs of municipalities, and the power of the commissioners has been definitely set out in the Act.

Expropriation.—An attempt has been made by c. 12 to consolidate all the statute law relating to expropriation and to make the practice uniform. It deals with expropriation proceedings taken by the Crown, by a municipality and by a private corporation. The Crown's right of entry does not depend upon payment of compensation, but except in the case of highways and drains the right of a municipality to enter other than for survey purposes does not arise until compensation is paid. Neither does the right arise in favour of a private corporation until payment of compensation. The arbitration proceedings in each case are before a county court judge, subject to appeal in cases involving six hundred dollars or over.

Hospital Aid.—By c. 15 the statute law relating to municipal liability for hospitalization is brought down to date, the liability of a municipality being limited to $1.50 per day, except in the case of smallpox patients, for whom a charge may be made not in excess of $7 per day, and for babies born in the hospital a charge not greater than 75 cents per day. The Government are responsible for public ward patients from unorganized territory on a similar basis. The provisions respecting admission where the municipality or the Government are to be held liable require the written authority of the local health officer except in emergency cases, and after admittance that a prompt notice be given the municipality or the Minister of the admission.

Arbitration.—By the new Arbitration Act (c. 3) no material change has been made in the existing law. The provisions of the English Act relating to arbitration have been followed and certain sections from the old Municipal Act incorporated.

Steam Boiler and Pressure Plant.—C. 39 embodies the provisions of the Steam Boiler Act (repealed) and, in addition, makes provision for the inspection and regulation of other pressure plants. Steam boilers used in farm work and small refrigerating plants in houses are exempt from the provisions of the Act.

Vital Statistics.—C. 51 is simply a consolidation of the existing statute, which has been largely rewritten.

Telephones.—C. 46 repeals the Telephone and Telegraph Department Act and the Manitoba Telephone and Telegraph Act. It definitely puts the telephone system in charge of the Manitoba Telephone Commission, the Government retaining control over new construction, extensions and purchases of additional systems.

The Mental Deficiency Act, the Mining Tax Act and the Parents' Maintenance Act are new pieces of legislation.

Mental Deficiency.—C. 24 is legislation similar to the Mental Diseases Act, but dealing with mental defectives. It is based on English legislation. A mental defective may be confined to an institution by the provincial psychiatrist on the application or with the consent of the parents or guardians. In every other case he may only be confined on the order of a judicial authority, which is defined to mean a judge of the county court or a police magistrate. In every case provision is made for his examination and certification as a defective by an independent medical examiner.

Mining Tax.—C. 27 has for its object departmental control over mining claims rather than taxation. The holders or lessee of every mineral claim is required to pay an annual tax of $5 and the mineral claim is subject to forfeiture on notice if default be made for two years or more.

Parents' Maintenance.—C. 31 renders liable a son or daughter for the support of a dependent parent, and proceedings to enforce maintenance may be taken before a magistrate, who is authorized to make an order for the purpose not exceeding $20 a week. Proceedings under the Act may be taken by the dependent parent or by anyone on his or her behalf, or by the Supervisor of Public Institutions, the governing body of the hospital or a municipality.

Companies.—By an amendment (c. 5) to the Companies Act the certificates to be given by an auditor on completing an audit has been revised. A company is now permitted to have a branch register of transfers outside the Province. Every corporation doing business in the Province must be registered, other than corporations created for any government or municipal purpose, banks and railway corporations, and corporations created solely for religious purposes. A definition has been placed upon "carrying on business," and insurance companies who have filed their charter and by-laws with the Superintendent of Insurance are exempted from again filing those papers with the registrar. A list of shareholders is only required from corporations which issue capital stock not fully paid up, and the Attorney-General is authorized to investigate insurance companies and is given the power of search in making his investigation into financial corporations.

Debt Adjustment.—The Debt Adjustment Act has been extended by c. 9 and now affords protection of every debtor under an agreement for sale or mortgage entered into prior to April 1, 1931, against all proceedings other than the collection of rents, so long as no default has been made in the payment of fire insurance premiums or taxes for one year, or the interest on the first mortgage for a like period. Where notice is served and rents are collected they must be applied first in maintenance and fire insurance, then in discharging taxes in arrears, then in the payment of the interest on the several encumbrances and the balance, if any, as directed by the commissioner. A vendor or mortgagor during the year 1933 is prevented from taking more than one-third share of crop unless he supplies the seed or contributes to the threshing or binder twine, and provision is made for the payment, out of the vendor's or mortgagor's one-third share, of one year's taxes on the land. The provisions relating to appeal to the county court judge have been revised; relief to the commissioner by way of interpleader is given; a court official is not now put on his inquiry as to the necessity of a certificate before executing his process; and the Act is extended for another year. It is to be noted that the old War Relief Act is repealed by this amendment.

Farm Loans.—By an amendment (c. 13) to the Farm Loans Act foreclosed land belonging to the association is now vested in the King subject to the payment of the arrears of taxes at the time of the vesting, but provision is made that revenue from the land be paid over to the municipality in any year to the extent of the taxes which would have accrued thereon during that year.

Highway Traffic.—An amendment (c. 14) to the Highway Traffic Act places the control over public service traffic in the Municipal and Public Utility Board and the Good Roads Department. A merchant is permitted to deliver his merchandise within a radius of fifteen miles with a commercial truck licence. The Lieutenant-Governor in Council is authorized to regulate the use that may be made of highways and to discontinue the use of any highway at any time. Soliciting of the transportation of passengers is confined to public service vehicles and travel bureaux must take out a special licence.

Interpretation.—An amendment (c. 17) to the Interpretation Act provides that a judge or officer of a court named in a statute is so named as an officer of the court and not as *persona designata.*

Jury.—By an amendment (c. 18) to the Jury Act the jury fee is increased from $50 to $100, and the allowance to a juryman is reduced from $5 to $4 per day.

Law Society.—By c. 20 the Law Society Act now contains a penalty for unauthorized persons acting as conveyancers, which has been taken from the English statute and replaces the clause which formerly appeared in the Conveyancers Act (repealed).

Liquor Control.—The Government Liquor Control Act, 1928, has been amended (c. 22) to permit the commission to regulate clubs, to define liquor to include certain substances which on being diluted are capable of being made drinkable liquids, to determine the census of any district and to revoke interdiction orders. Provision is also made for making an application for an hotel licence and its consideration before the construction of a building for the purpose. The minimum fee for such a licence has been reduced to $100 in cities and $50 in other places, but a tax is levied on the cost of all beer purchased therein. The index figure for determining the number of beer licences in the city of Winnipeg is increased from 4,000 to 4,300. The power of a magistrate to issue a search warrant has been revised.

Payment of Debts.—The Orderly Payment of Debts Act has been amended (c. 30) to exclude traders from the operation of the Act.

Public Schools.—By an amendment (c. 33) to the Public Schools Act power is given to consolidate school districts in unorganized territory.

Treasury Department.—By an amendment (c. 47) to the Treasury Department Act power is given to appoint an acting Comptroller-General and also to suspend him on the recommendation of the leaders of the parties in the House.

University.—The University Act was amended (c. 50) increasing the number on the Board of Governors from nine to fourteen by adding the chancellor and president of the University and three members to be elected by the alumni. The chancellor also will hereafter be elected by the alumni. Provision is made for the protection of the securities of the University by their deposit with some chartered bank or trust company.

Taxation.—Some amendments were made to the provincial taxing laws. The rebate permitted by the Gasoline Tax Act was revised (c. 42)

and now applies to fishing launches, threshers, combines and fire engines only. Under the Income-tax Act Amendment (c. 43), the exemption of $500 is now allowed for children or grandchildren under twenty-one years of age and resident in Canada, and a maximum of $500 for dependents resident in Canada being parents or grandparents or sisters, brothers, sons or daughters incapable of self-support. The exemption in favour of a householder is repealed. Information must be supplied respecting rents, interest, wages, salaries and director's fees, otherwise they will not be allowed as deductions to the taxpayer. The corporation whose fiscal year does not coincide with the calendar year shall make its return within four months from the close of its fiscal year. A non-resident taxpayer is not allowed any exemption. The provisions respecting appeal have been revised and the Act now provides for a revision of the administrator's assessment by the Minister and then an appeal direct to the Court of King's Bench.

There is a further overriding tax on incomes of 2 per cent. by the Special Income-tax Act (c. 44). Under its provisions in the case of wage earners, the employer is required to deduct and remit the tax on the fifteenth day of each month. In other cases the tax for any given year is based on the income, other than wages, for the previous year and is payable one-quarter on April 30, one-quarter on June 30, one-quarter on August 31, and the remaining one-quarter at the end of the tax year, April 30, following, at which time the next year's tax return will be available and will enable an adjustment to be made on the basis of the actual income for the year in question.

Assessment.—An important change was made by c. 53 in the shifting forward of the machinery of assessment and collection of taxes to permit of demands for taxes being sent out before July 31, and to provide for payment of taxes not later than October 31. In this connexion attention might be drawn to the Debt Adjustment Act, under which applications for title to land sold at tax sale belonging to a resident farmer or home-owner protected by the Act may be carried forward to the issue of the certificate of title, as it is only the issue of the title that is prevented by the Act without the certificate of the commissioner.

Municipal Tax Arrears Consolidation.—By c. 62, unless a municipality by by-law passed on or before July 1 otherwise enacts, all outstanding arrears of taxes become consolidated. A municipality may also provide for the remission of outstanding penalties and interest, or a part thereof. Upon a consolidation of arrears of taxes the owner of land may pay the municipality, on or before October 31, a sum equal to one-tenth of the amount with interest from the previous December 31, at the rate of 7 per cent. per annum and the balance in five consecutive annual instalments: 10 per cent. before October 31, 1934; 20 per cent. before October 31, 1935, 1936 and 1937, and 30 per cent. before October 31, 1938. It is a condition precedent that the ratepayer pay the annual taxes with the consolidated percentages.

5. NEW BRUNSWICK.

[*Contributed by* H. Lester Smith, Esq., *Clerk of Executive Council.*]

Acts passed—88; Public—47; Private—41.

Qualification of Voters.—C. 17 provides that the acceptance or receipt of direct relief within the meaning of the Federal Unemployment and

Farm Relief Act shall not be deemed to be an acceptance or receipt of aid as a pauper and shall not be a cause for disqualification or to prevent such person from voting at any city, town, municipal or provincial election.

Collection Agencies.—C. 18 provides for the licensing and control of collection agencies under regulations to be prescribed by the Lieutenant-Governor in Council.

Loans on Forest Products.—C. 19 is an Act to provide for securing loans upon forest products. The effect of the Act is to give to private lenders, which "include any person, association, partnership or company or any corporation, wherever and however incorporated," similar protection to that afforded to banks under s. 88 of the Bank Act.

Memorials and Executions.—C. 39 is an amendment to the Memorials and Executions Act, and very materially enlarges the quantity of goods, chattels and effects of a judgment debtor exempt from levy or sale under execution.

6. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., K.C., *Deputy Attorney-General.*]

Acts passed—137; Public—65; Local—53; Private—19.

Relief of Mortgagors and Purchasers.—C. 3 prohibits the taking of proceedings in the courts to foreclose or otherwise enforce a mortgage unless the leave of a judge is obtained. The judge is given an absolute discretion, after considering all the circumstances of the case and the position of all the parties, to grant or refuse the application, but the onus of showing that the mortgagor is unable to meet payments which are in default, or that undue hardship would arise from the granting of the leave applied for, is upon the mortgagor. This Act is to continue in force only until May 1, 1934.

Collection of Debts.—The Act respecting the collection of debts was amended and consolidated by c. 4, entitled "An Act to Consolidate and Amend Chapter 232 of the Revised Statutes, 1923, 'The Collection Act.'" This Act is in some respects similar to the Debtors' Act in force in England, and provides for the examination of a judgment debtor before an examiner appointed under the provisions of the Act, and the making of orders for payment of the judgment debt by instalments, and the committing of the judgment debtor to jail in default or where there has been any fraud in connexion with the contracting of the debt. The main difference between this Act and the previous Act is that where the judgment debtor is committed to jail for failure to pay instalments, and has remained in jail for fourteen days, the case is considered *ex parte*, and without any application on behalf of the debtor, by a judge, who may in his discretion, if the imprisonment is imposing undue hardship on the debtor or his family, order that the debtor be released. The Act further provides that the judgment creditor in such cases shall be liable to pay the jailer $1 per day for the maintenance of the debtor, and if default is made in such payments for fourteen days the jailer must release the debtor.

Deeds of Married Women.—C. 5 is mainly a consolidation of the existing law on the subject, the most important change being that it shall not be necessary that the husband join in the deed, and that the married woman acknowledge before any official, or at all, that the deed is her

free act and deed, and was executed freely and voluntarily. One of the effects of this is that the husband would not be entitled to an estate by the curtesy except in the event of his wife dying intestate.

Registration of Corporation Securities.—The registration of bills of sale and of assignments of book debts by corporations was not provided for in the Act respecting the registration of bills of sale and the Act respecting the assignment of book debts. The Conference of Commissioners for the Promotion of Uniformity of Legislation in Canada drafted and recommended for adoption an Act to make uniform the law respecting registration of corporation securities. This Act has been enacted in nearly all of the Provinces of Canada. The Nova Scotia Act (c. 6), the Corporation Securities Registration Act, is the uniform Act and provides for the registration of such securities.

Employment of Non-resident Workmen.—Persons and corporations employing not less than twenty-five persons are prohibited by the Nova Scotia Labour Act (c. 7) from hiring as a workman or making any agreement or contract for hiring or employment, with a person who has not been a resident of the Province for at least a year, unless the person so hired produces a certificate from the Government Employment Agent that there are no unemployed persons resident in the locality capable of doing and willing to do the work. The penalty for violation of the Act is a fine not exceeding $500. The Act is to remain in force only until May 1, 1934.

Protection of Milk and Cream Producers.—The purpose of c. 8 is to protect producers of milk and cream from being victimized by unscrupulous and financially irresponsible persons purchasing milk or cream from them and making default in payment. Provision is made for the licensing and bonding of those engaged in buying from producers fluid milk or cream for sale, and for the appointment of the Nova Scotia Milk and Cream Producers Protective Board to administer the Act.

Agricultural Limestone.—Authority is conferred on the Governor in Council by c. 10 to appoint a Board which shall be a body corporate by the name of the Agricultural Limestone Board. The Board is authorized to quarry, grind, manufacture and distribute limestone or marl to be used for agricultural purposes, and to buy, import, export, deal in and sell the same. The Province is authorized to pay and advance annually to the Board whatever sums may be required or necessary for the administration of the Act. All moneys received from the sale of agricultural limestone and lime and marl products by the Board are required to be applied by the Board towards the expenses of the Board in the administration of the Act.

Apple Maggot Control.—A Board called the Apple Maggot Control Board is constituted under "An Act to Provide for the Prevention, Control and Elimination of the Insect known as the Apple Maggot (Rhagoletis Pomonella Walsh) in the Province" (c. 11), and very broad powers are conferred on the Board with respect to the treatment, disposition and destruction of any tree, shrub, vine or plant, or the fruit or any portion whatsoever of a tree, shrub, vine or plant infested or suspected to be infested with apple maggot, and to prevent the removal from any land of apples infested or suspected to be infested with apple maggot.

Parents' Maintenance.—A parent who by reason of age, disease or infirmity is unable to maintain himself or herself, is given the right by c. 14 to apply to a magistrate for a summons directed to any son or

daughter to show cause why a maintenance order should not be made against him or her. After hearing the matter the magistrate may, in his discretion, having regard to the whole circumstances of the case, make an order that the son or daughter, as the case may be, shall pay to the parent or to some person designated by the magistrate, a sum of money not exceeding $15 per week for the maintenance of the parent.

Children's Maintenance.—C. 15 merely declares that everyone (*a*) who is a parent of a child that is under the age of sixteen years, or (*b*) who is a guardian of a child that is under the age of sixteen years and is a member of the guardian's household, shall be under a legal duty to provide necessaries for such child except where there is a lawful excuse for omitting, neglecting or refusing to provide the same.

Nova Scotia Reformatory.—Authority is conferred by c. 16 on the Governor in Council to establish a reformatory, to which any male person convicted under an Act of the Legislature of Nova Scotia of an offence punishable by imprisonment in a common jail, city prison or lock-up may, in place of such imprisonment, be sentenced for such fixed term not less than three months nor more than six months as the court thinks fit, but after the expiration of the fixed term such person is to be detained in the reformatory for an indeterminate period thereafter, not to exceed two years from the commencement of his term of imprisonment in the reformatory; any person so sentenced may be granted a licence to be at large during such part of his term of imprisonment, including the indeterminate period, as is deemed expedient, if his conduct while in the reformatory has been such as to warrant the granting of the licence.

School Attendance.—An amendment (c. 25) of the Education Act makes elaborate provisions to ensure the attendance of children at school.

Cemeteries: Perpetual Trusts.—The Trustee Act was amended (c. 46) by abrogating the rule against perpetuities in the case of perpetual trusts for the purpose of caring for, preserving, improving, embellishing or maintaining any private lot, tomb, monument or enclosure in any cemetery in Nova Scotia.

Liberty of the Subject.—The Act for securing the liberty of the subject was amended (c. 53) by providing in effect that in any case where an application is made to a judge for a writ of *habeas corpus ad subjiciendum* the judge shall refer the application to the Supreme Court *in banco* if requested so to do by or on behalf of the Attorney-General, except where the imprisonment is under civil process.

Limitation of Actions.—An amendment (c. 54) of the Statute of Limitations fixes one year as the period within which an action for negligence or malpractice may be brought against a duly registered physician or surgeon, or against officers, nurses or employees of a hospital which has on its staff qualified medical practitioners and nurses qualified under the Registered Nurses Association Act.

7. ONTARIO.

[*Contributed by* JOHN J. ROBINETTE, ESQ., *Editor of the Ontario Law Reports.*]

Acts passed—112; Public—70; Private—42.

The fourth session of the eighteenth Legislature of Ontario began on February 15, and ended on April 18, 1933.

Collection Agencies.—By the Collection Agencies Act (c. 6) individuals or corporations carrying on the business of collecting debts for other persons for a fee are forbidden from carrying on such business unless licensed under the provisions of the Act. The Lieutenant-Governor in Council is also empowered to make regulations prescribing the form of licence and prohibiting the use of any particular method in the collection of debts. The Act is made applicable to all collection agencies whether the head office of such agency is in Canada or elsewhere, but it does not apply to solicitors, or to insurers, agents and brokers licensed under the Insurance Act, or to trustees in bankruptcy. The Collection Agencies Act, 1932,[1] is repealed.

Conditional Sale of Chattels.—The Conditional Sales Act (c. 8) provides that a written notice of any hire receipt or conditional sale contract covering chattels may be registered in the proper land registry or land titles office, and that the registration of such a notice shall constitute actual notice of the conditional sale agreement or hire receipt to the owner of the land and to a subsequent purchaser or mortgagee of such land.

By s. 8 of the Conditional Sales Act, 1927, it is provided that if chattels sold under a conditional sale agreement or hire receipt are subsequently affixed to land, they shall remain subject to the rights of the seller or lender as if they were not affixed to the land. However, the Court of Appeal for Ontario in *Hoppe* v. *Manners*, (1931) 66 O.L.R. 587, held that, despite s. 8 of the Conditional Sales Act, 1927, a conditional sale agreement in respect of chattels subsequently affixed to realty is an instrument affecting land which, by virtue of the Registry Act, 1927, or the Land Titles Act, 1927, unless registered in the land registry office or land titles office, is null and void against a subsequent purchaser or mortgagee of the land who has no notice of the conditional sale agreement affecting the fixture. The object of the present legislation is to provide a convenient machinery whereby conditional vendors of chattels which may be annexed to land, by registering a notice in the land registry office or land titles office, can preserve their rights against subsequent purchasers or mortgagees of the land.

Conveyances of Land.—By the Conveyancing and Law of Property Act (c. 9), it is provided (*a*) that a person may convey property to or vest property in himself in like manner as he could have conveyed such property to or vested such property in another person, and (*b*) that two or more persons may convey and shall be deemed always to have been capable of conveying any property vested in them to any one or more of themselves in like manner as they could have conveyed such property to a third party. By s. 39 of the Conveyancing and Law of Property Act, 1927, it was provided that any property could be conveyed by a person to himself jointly with another person, by the like means by which it might be conveyed by him to another person. The object of the present legislation, which corresponds to s. 72 (3) and (4) of the Imperial Act, 15 Geo. 5, c. 20, is to remove the last vestige of the common law incapacity of a man to convey land to himself.

Sale and Inspection of Fruit.—The Fruit Act (c. 18) affords an interesting illustration of a technique which may be adopted by the various legislative bodies in Canada as to those subjects over which legislative power is divided by the British North America Act. The present Act provides that the provisions of the Fruit Act, 1927 (Canada), in so far as

[1] See *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 46.

any of them are within the legislative competence of the Legislature of Ontario, shall have the force of law in the Province of Ontario and that the Lieutenant-Governor in Council may by proclamation declare any amendments to the Dominion Act, so far as such amendments are within the legislative competence of the Legislature of Ontario, to have the force of law in the Province of Ontario. The Act also contains a saving clause to the effect that nothing in the Act shall be construed as an admission or declaration by the Legislature of Ontario that any of the provisions of the Dominion Act are within the legislative competence of the Parliament of Canada. It would seem that the insertion of such a saving clause is *ex abundanti cautela*, because it is difficult to understand how in a federal system a legislative body could estop itself from denying the validity of legislation passed by another such body.

Highway Traffic.—In an attempt to curtail the number of level crossing accidents it is provided by the Highway Traffic Act (c. 20) that no motor vehicle shall be driven over a level crossing, whether or not the driver of the vehicle has a clear view of approaching railway traffic, at a greater speed than twenty miles per hour.

Innkeepers.—The Innkeepers Act (c. 21) restricts the right of an innkeeper to a lien on the goods of a guest by providing that, where the claim of the innkeeper exceeds the amount due in respect of one week's board, the guest may apply to a magistrate for an order entitling the guest to possession of his goods on the payment of one week's board or lodging. The Act also provides that in the case of any retention or seizure by an innkeeper, the guest may apply to a magistrate who, notwithstanding the innkeeper's lien, may make such order as to the custody of the goods as may seem fair to him under the circumstances of the case. In case of any disobedience to an order made, the magistrate may punish the offending party by a fine not exceeding $50, or by imprisonment not exceeding thirty days, or both.

Mortgagors' Relief.—The Mortgagors' and Purchasers' Relief Act (c. 35) is designed to afford to mortgagors and instalment purchasers of land a broader measure of relief than that given by a similar Act passed in 1932.[1] By the 1932 Act the right of a mortgagee to his usual remedies was not interfered with if the mortgagor were in default as to the payment of interest, municipal land taxes or fire insurance premiums ; however, if there were default only as to the payment of principal, the mortgagee could not take any proceedings by way of foreclosure or otherwise without first having obtained leave from the Supreme Court of Ontario.

The present Act does not depart from the 1932 Act where there is only a default as to principal. But it does go beyond the 1932 Act by providing that where the mortgagor resides upon the property covered by the mortgage and there has been default as to the payment of interest, taxes or fire insurance premiums, the Supreme Court of Ontario may, on the application of the mortgagor, order that the mortgagor be relieved from making any payments to the mortgagee for a period not exceeding six months and that, from and after the expiration of such six months, the mortgagor shall for a further period not exceeding six months pay in advance to the mortgagee, by way of rent, monthly payments based upon at least 75 per cent. of the yearly aggregate amount of the interest, taxes and insurance premiums due in any year.

Obscene Publications.—By s. 6 of the Statute Law Amendment Act

[1] See *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 45.

(c. 59) it is provided that an action may be brought in the Supreme Court of Ontario by the Attorney-General for an injunction or mandamus restraining the publication of any newspaper or magazine which publishes continuously or repeatedly writings or articles which are obscene, immoral or otherwise injurious to public morals.

Surrogate Courts.—The Surrogate Courts Act (c. 63) provides that a judge of a surrogate court, on the auditing by him of the accounts of a personal representative of a deceased person, shall have the power to inquire into any complaint or claim, by any person interested, of misconduct, neglect or fraud on the part of the personal representative, occasioning financial loss to the estate, and that the judge may order the personal representative to pay such sum, by way of damages or otherwise, to the estate. The effect of this amendment is to render obsolete the view expressed by the Privy Council in *Campbell* v. *Hogg*, [1930] 3 D.L.R. 673, applied by the Supreme Court of Canada in *Hogg* v. *The Toronto General Trusts Corporation*, [1934] S.C.R. 1, that on the auditing of the accounts of a personal representative a surrogate court judge has no power to charge the personal representative with any sums in the nature of interest or damages beyond those which it was admitted or proved that he received.

8. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Public Acts—29; Private Acts—17; Total—46.

Insurance.—C. 1 is a new Act which includes a consolidation and re-enactment of all previous insurance legislation. As the result of a series of decisions of the Judicial Committee of the Privy Council (the last being reported in 1932 Appeal Cases, p. 41), it was found necessary that the Provincial Legislatures should enact legislation covering the whole field of insurance. C. 1 provides for the appointment of a Superintendent of Insurance who, under the instructions of the Minister, is to have general supervision of the business of insurance within the Province, and to see that the laws relating thereto are enforced and obeyed. Insurance companies before carrying on business in the Province must obtain a licence from the Superintendent, who is given power to investigate the financial condition of the applicants. The Act is divided into fifteen parts, which include the subjects of fire, life, accident and sickness, automobile, live-stock, and weather insurance; fraternal and mutual benefit societies; mutual insurance companies; reciprocal or inter-insurance exchanges; amalgamation transfer and re-insurance; agents, brokers adjusters; the appointment of the Superintendent and his duties; and general provisions applicable to insurers. The part relating to life insurance is a re-enactment of the Model or Uniform Life Insurance Act prepared and recommended by the Canadian Bar Association in 1923, and which had been adopted by all the common law Provinces. The part relating to fire insurance is a re-enactment of the Model Act recommended by the Canadian Bar Association in 1924, and which has since been adopted by seven of the nine Canadian Provinces.

Public Vehicles.—C. 2 relates to motor vehicles operated as public carriers of passengers or passengers and express freight operated upon the common and public highways, and requires that such vehicles be licensed and be subjected to the regulations prescribed by the Act.

Parents' Maintenance.—C. 12 extends the provisions for the support of parents who, by reason of age, disease or infirmity, are unable to maintain themselves.

Family Court.—C. 14 provides for the establishment of a court under the name of the Family Court for the purpose of dealing with juvenile delinquents and neglected or dependent children.

Arbitration.—C. 15 deals generally with the appointment of arbitrators voluntarily and by the court, and with their powers and duties ; the enforcement of their decisions and with appeals from their awards.

Bulk Sales.—C. 16 is an adoption of the model or uniform Act prepared and recommended by the Canadian Bar Association and which had been adopted in Alberta, British Columbia, Manitoba and New Brunswick.

Crown Prosecutors.—C. 18 authorizes the appointment to the office of Crown Prosecutor of any person who may be a member of the Legislative Assembly, who shall not be disqualified by the acceptance of such office or the receipt of renumeration therefor from sitting or voting in the Legislative Assembly.

Royal Canadian Mounted Police.—By c. 22, an agreement entered into between the Government of Canada and the Government of Prince Edward Island regarding the enforcement of Provincial Laws by the Royal Canadian Mounted Police is ratified and confirmed. Under this agreement the policing of the Province theretofore carried on by Provincial Police is undertaken under certain terms and conditions by the Royal Canadian Mounted Police.

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Acts passed—180 : Public Acts—121 ; Private Acts—59.

Orders in Council.—From June 1932 to May 1933, a number of Orders in Council were passed to complete previous legislation. They settle, among other matters, the details of the memorandum of information to be furnished by companies and syndicates in virtue of the Companies Information Act (R.S. 1925, c. 228), in addition to that required by the Act itself ; the contents of registers to be kept by employers of labour under the Women's Minimum Wage Act (R.S. 1925, c. 100) ; the obligation to secure a travel permit in order to enter Crown land between May 12 and November 12, 1933 ; the fixing of the price of $1 for a permit to a hunter domiciled in the Province to kill one caribou in certain countries between September 21 and December 31 ; a bounty of $15 for any resident of the Province having killed a wolf ; reciprocal arrangements of the Province and any other government respecting registration of motor vehicles owned or operated in Quebec by non-residents ; for quarantining, as allowed by s. 11a of the Plant Protection Act (R.S. 1925, c. 72), certain districts menaced by the European corn borer.

Unemployment Aid.—C. 2 supplements the provisions of the Unemployment Aid Act, 1932, and ratifies a contract entered into between the Federal Minister of Labour and the Provincial Minister of Public Works with regard to the relief to be given to the unemployed, under which all families who may be placed on land at the expense of the Dominion, the Province and the municipality must be residents of Canada and selected from those who would otherwise be in receipt of direct relief, the selection

of families to be made without discrimination by reason of political affiliation, race or religious views.

Public Officers Group Insurance.—C. 12 amends R.S. 1925, c. 12, by the addition of a section providing that the Cabinet may authorize the Provincial Treasurer to take out, in favour of all public offices or employees of the Provincial Government, or of any class or classes thereof, as he may determine, insurance policies against sickness, under the system known as group insurance, and may pay to the insurance companies or to the societies concerned a part of the necessary premium out of the consolidated revenue fund ; provided that any public officer or employee may signify his desire not to be included in any group.

Licensing.—By c. 15, the Provincial Treasurer may, for any reason he deems valid, prevent the issue of a licence under R.S. 1925, c. 25, or may suspend, at any time, a licence issued. He may also annul, at any time, a licence issued, and remit to the licensee a proportionate part of the duty and fee paid.

Alcoholic Liquor.—By c. 19, the Quebec Liquor Commission may sell and deliver in such of its stores as it may fix by regulation until such hour in the afternoon, but not after eleven o'clock, as it may also fix by regulation. This provision applies only to cities and towns having a population of over 25,000 souls, and in which not more than two stores may be open after six o'clock in the afternoon.

Any judge of the sessions, or any police or district magistrate who is satisfied, by information upon oath given by an officer of the Commission or a person authorized by it, that someone in the Province is in a position to supply information respecting infringement of the laws governing alcoholic liquors, may issue a summons requiring such person to appear at the time and place which he fixes to give evidence and to bring all documents in his possession or under his control connected with such information. As soon as the inquiry is completed, the judge or magistrate transmits the depositions to the Attorney-General for such action as is warranted by the evidence.

Exportation of Hydro-electric Power.—By c. 20, notwithstanding any provision prohibiting the exportation, outside of Canada, of electric power, in a sale, lease or grant respecting water powers belonging to the Province or in which it has rights, the Cabinet may, for such periods as it may fix, and on such terms and conditions as it may determine, suspend the effect of such prohibition, provided, however, that the quantity of electric power, the exportation whereof may be thus authorized, shall not exceed in all 300,000 horse-power, and provided also that the sale price of the electric power so exported be not below that for which it is sold in Quebec.

Forest Products Commission.—The preamble of c. 21 states that the Commission has had excellent results from its campaign of propaganda on behalf of the utilization of the woods of the Province, and that the forest industry being in a state of stagnation through the poor market in forest products, it cannot at present financially assist the Commission in carrying out its programme. So the Cabinet is empowered to authorize the Provincial Treasurer to pay out of the consolidated revenue fund an additional sum not exceeding $20,000 annually, to promote the utilization of forest products.

Dairy and Agricultural Schools.—By c. 23, the Minister of Agriculture may make, amend or repeal regulations under R.S. 1925, c. 62, for

appointing a teaching staff, among whom he shall choose a director, and for establishing the qualifications required for professors; for determining the conditions of admission to such schools; for establishing an examination system and appointing one or more examiners; for authorizing the director to issue, upon the recommendation of the board of examiners, to any candidate who has succeeded in his examinations a certificate of competency or diploma allowing the holder to be employed in any factory or industry in which such certificate or diploma may be required.

Dairy Products Act.—By c. 24, no person shall operate a factory—that is, an establishment which receives milk or cream to be sold in its natural state, or to be converted into butter, cheese or any other milk product—without having previously obtained an operating permit from the Inspector-General of Dairy Products appointed under the Act. Every factory shall engage the services of a milk and cream expert tester, and if it manufactures butter or cheese, or both, the maker must hold a diploma and a permit for manufacturing the same. The Minister of Agriculture may appoint a commission of five to seven members to investigate and study the situation of the dairy industry and the dairy products trade in the Province or elsewhere, and report to the Minister. It must establish a scale for the guarantee to be given by milk dealers to their producer-suppliers. The Cabinet may make, on the recommendation of the Minister, regulations for the carrying out of the Act. No owner of a truck or of an animal-drawn vehicle may convey, or cause to be conveyed, milk or cream from the country to a factory in a city or town unless he has obtained, from the Inspector-General, a transportation permit. The permit must be renewed every year and may be revoked at any time for cause. It is not required from a farmer transporting the milk of his herd. If the owner of the factory where an offence against the Act was committed is a society, company or corporation, the president thereof, or if such office is vacant, the manager of the factory may be prosecuted and is personally liable for the fines and penalties which may be imposed for any infraction of the Act. The total cost of the carrying out of this Act shall not exceed $225,000. The Act shall not apply to milk dealers who obtain their supplies directly from the producers and the value of whose purchases does not exceed $100 per month.

Tobacco.—By c. 27, the Minister of Agriculture may ascertain the sanitary state of every place and establishment where leaf tobacco is manipulated for commercial purposes. The manipulator must affix a label to every package of leaf tobacco which he sells, indicating its quality and his address. The Cabinet may make, amend or repeal regulations for determining the various standards of quality, manner of preparation, classification and inspection of leaf tobacco, for establishing the conditions and formalities in connexion with the confiscation of defective leaf tobacco and for the carrying out of the Act. Such regulations must first be published in the *Quebec Official Gazette*. The Minister may appoint inspectors to supervise the carrying out of the Act, who may, at any time, enter any place where leaf tobacco is manufactured in order to ascertain the salubriousness of the premises, and any place where leaf tobacco is kept or sold in order to ascertain that all the conditions imposed by the Act are observed there, particularly those relating to classification and labelling. They may order the destruction of any lot of leaf tobacco deemed unfit for smoking or order the confiscation of any lot of leaf not corresponding to the label it bears, particularly as to standard of quality and as to its real

place of origin. Whoever hinders an inspector in the performance of his duties, or offers for sale leaf tobacco falsely or improperly described, or violates, or refuses to comply with any provision of the Act or of the regulations made in virtue thereof, becomes liable to a penalty, the recovery whereof may be enforced by coercive imprisonment. The Act does not apply to the tobacco manufacturer who holds an excise licence issued by the Federal Government, in so far as concerns leaf tobacco in his possession to be used for the purposes of manufacture.

Game Laws.—By c. 33, sharp-tailed grouse are assimilated to partridges, and it is provided that every railway, steamboat and other company, and every other common carrier, and every owner or operator of a motor vehicle is forbidden to carry, or to have in his possession for purposes of transportation, the whole or any part of any moose, caribou or deer, the flesh of such animal, or the head or the green hide thereof, unless there be attached thereto a tag issued by the Department entrusted with the carrying out of game laws authorizing such transportation.

Tourist Traffic.—By c. 36 the Minister of Roads is charged with the touristic documentation, propaganda and publicity within the purview of the Government of the Province, and he may for such purpose establish in his department a tourist traffic bureau. He may also establish a tourist traffic council the members of which are to be chosen by him from among the officers of the Departments of Commissions of the Government of the Province, and are to be entitled to their travelling expenses. The duties of the council are to unite and co-ordinate the information and work of each government department or commission which may assist or aid in the development of tourist traffic in the Province ; to consult the societies, commissions, associations, automobile clubs and public or private bodies, to obtain from them any suggestions which may be of a nature to contribute to the progress of tourist traffic in the Province ; to report to the Minister all suggestions or recommendations so obtained ; to hold at least twelve sittings a year in the Quebec Parliament Buildings and to convene and hold a special meeting whenever the Minister requests it to do so. It may sit at any place in the Province, if authorized by the Minister. Every initiatory syndicate, in addition to the powers conferred by the Act under which it is incorporated, may, for the purpose of assisting or aiding in the development of tourist traffic in the Province, stimulate, guide and co-ordinate the efforts of any other organization dealing with tourist traffic, make known by means of propaganda and publicity the sites, the monuments, the history, the hunting and fishing places and the summer resorts of any region, district or locality ; work to improve the means of access, transportation, reception and accommodation for visitors; encourage the development of the hostelry business and domestic arts ; operate a free information bureau for tourist travel; promote the formation of a body of historical guides; act as intermediary between public administrations, transportation companies, hostelry associations, boards of trade and in a general way touristic groups ; publish and distribute maps, descriptive pamphlets, guide books, albums and other publications tending to develop tourist traffic. Every initiatory syndicate must have its programme approved by the Minister.

Signboard and Posters.—The word " poster," in c. 38, means any printing, writing, drawing, painting, lithograph or representation by any process whatsoever, placed so as to be seen by the public and used for notices, announcements, advertisements or publicity. A poster must be

placed at a certain distance from the road. It must be removed by its owner upon the request of the Minister of Roads whenever the latter deems that such poster hides or disfigures the scenery or view or is detrimental to an observation station which the Minister has established. The Minister may, by an order published in the *Quebec Official Gazette*, prohibit, in the places which he designates, the putting up of posters which may be seen from a road maintained by the Minister. The owner, lessee or occupant of the land, the party who erected the poster and the party for whose benefit it was erected may be prosecuted for infringement of the Act, and the court may order that the poster be destroyed at the expense of the person convicted.

Women's Minimum Wage.—By c. 39, the Cabinet may adopt, amend or repeal regulations to compel employers to keep registers in which are entered the names, age and place of residence of the girls or women employed by him, the duration of each day's work of such girls or women, as well as the wages they have received for such work whether they are engaged by the day, by the hour, on piecework or otherwise.

Hours of Work.—By c. 40, the Cabinet may limit the number of hours per week or per day during which a manual labourer may work, except in agricultural industry or in industries or works which are subject to the competition of other countries or Provinces. The working hours must not be less than six per day, or thirty-three per week. The employers' or workmen's associations, if any, must be consulted before the limitation is decreed. It may be suspended. Infringements are penalized. The Act comes into force on proclamation, and may be repealed in the same manner.

Justices of the Peace.—By c. 41, the mayor shall be *ex-officio* justice of the peace for the municipality. He may hear and decide any cases in which the municipality or its officers are interested parties. The aldermen, so long as they continue in office, are *ex-officio* justices of the peace for the administering of oaths only.

Municipal Commission.—By c. 50, no promissory note given by a municipality, in payment of an account or other debt exceeding $100, shall bind the municipality, unless the issuing thereof shall have been approved by the Commission. The Commission may authorize a municipality, upon application made to it by resolution of its council, to contract one or more temporary loans upon the conditions and for the period which the Commission determines. The conditions so determined by the Commission shall govern such loans notwithstanding any contrary or incompatible provision of a general or special Act limiting the amount of temporary loans and determining the period for their reimbursement. No decision of the council of the municipality, howsoever taken, shall come into force and be executory until the Commission has given its approval to the minutes of the sitting of the council at which such decision was made. The Act also contains detailed provisions regarding sales of real estate for taxes.

Amusement Tax.—By c. 52, the tax is exigible in all cases, except where the amusement is given under the four following conditions, viz.: (*a*) by organizers and amateurs residing in the Province, who receive no remuneration whatever for their services on such occasion; (*b*) in a church or in a workmen's or parish hall for the use of which, for such purpose, no rent or other remuneration is paid; however, the payment by the organizers to the owner of the place of amusement of the exact cost of the

lighting, heating and cleaning of the place of amusement occasioned by the performance shall not be considered as a remuneration, provided that such cost does not exceed $20 in local municipalities the population whereof exceeds twenty-five thousand souls, and does not exceed $10 elsewhere ; (*c*) when the total gross proceeds derived therefrom are used exclusively for a charitable, agricultural or religious purpose, and (*d*) when such amusement does not comprise any moving pictures. The person, society or association providing the amusement must previously apply for the required exemption from the Comptroller of Provincial Revenue, who is entitled to grant or refuse such exemption. Such an application must be sworn to before a revenue officer, a notary, a justice of the peace or a commissioner of the Superior Court.

Jury.—By c. 67, the grand jury is abolished.

Pipe-fitters.—By c. 69, contractors for heating or refrigerating systems, or for mechanical sprayers, must obtain a licence, and pipe-fitters, whether journeymen or apprentices, must pass examinations before a board consisting of three members appointed by the Cabinet. Qualified journeymen may be appointed inspectors. Examiners and inspectors may, at reasonable hours, enter upon any building for the purpose of ascertaining whether the Act and regulations are complied with.

Pressure Vessels.—By c. 71, pressure vessels include boilers, furnaces, automatic apparatus, refrigerating plants, tanks or vessels used for containing gas, air or liquids under pressure, etc. The inspection of pressure vessels, either under construction or in operation, is provided for. Nothing shall be deemed to render the inspectors or other officers or employers responsible for any damage or loss caused to any person or property through defects in the work, materials, accessories or apparatus mentioned in the Act or through a regulation or an order of an inspector.

Health Units.—By c. 74, the health units established under the Act, 18 Geo. 5, c. 69, and its amendments, become permanent organizations having for their object the supervision and the protection of public health in the counties (36) in which they are established. The Cabinet may, when it deems it expedient, establish, in the counties or groups of counties not yet benefiting from same, public health services, so that the rural and semi-urban parts of the Province may be entirely provided therewith. Each municipal county corporation benefiting from a health unit is bound to pay, as its share in the expenditure, a sum calculated on the basis of 1½ cents per $100 of the amount of the taxable valuation appearing in the valuation roll in force at the time fixed for such payment in each of the municipalities comprised in the territory under the jurisdiction of such municipal county corporation, saving city or town municipalities independent of the municipal county corporation. The latter are assessed on the same basis ; but if their population exceeds four thousand souls, their contributory share is fixed at a sum calculated at 2 cents per $100 ; they may, however, make special arrangements with the Provincial Board of Health providing for an additional remuneration for such services. Cities and towns of twenty thousand souls or more which possess a sufficient public health organization may be exempted from such contribution. The health unit shall be the municipal sanitary authorities under the Quebec Public Health Act. The medical officer of the health unit or in his default the health inspector is the executive officer, and the secretary-treasurer or clerk of the municipality is his assistant. The

county health units are under the control of the Director of the Provincial Bureau of Health, who may delegate any official of the Bureau to supervise them. The Cabinet appoints the medical officer of each health unit and fixes his salary. The contributions due by the municipal corporations are recoverable if necessary by suit taken by the Provincial Secretary.

Adoption.—By c. 78, R.S. c. 196 is further amended. The necessity for a widower or a widow to be childless at the time of the adoption is removed. He or she may also adopt a child of a different sex, provided that the *de facto* adoption took place prior to the decease of the consort. A judgment of adoption may indicate, for the adopted child, the name of a godfather and a godmother. The transcription of the judgment of adoption in the register of civil status of the place of residence of the adopting parents is equivalent to an act of civil status.

Notarial Code.—C. 80 replaces R.S. c. 211, being an Act respecting the notarial profession. By s. 5, notaries are public officers, whose chief duty is to draw up and execute deeds and contracts, to which the parties are bound or desire to give the character of authenticity, to assure the date thereof, to have and preserve the same in safe keeping and to deliver copies thereof or extracts therefrom. Notaries are appointed for life, with concurrent jurisdiction throughout the Province. Deeds received by them outside of the Province are authentic when their object is real estate or real rights within the Province, or when the domicile of the party or parties, or any one of them, is in the Province. The notarial profession is very much as in France, except that the number of notaries is not limited, and the rules of discipline enacted in the Notarial Code resemble those of the Bar Act.

Civil Engineers.—C. 81 amends the Civil Engineers Act (R.S. c. 218) and enacts that the candidate, in order to be admitted to the study of the engineering profession and to the practice thereof and to become a member of the Corporation of Engineers, must be a British subject. This provision does not apply to the engineers who may be employed as professors at the Polytechnic School of Montreal or in the Faculty of Engineering of McGill University, for the period of their employment only, or to the persons who, before April 13, 1933, had been admitted to the study or the practice of the profession of engineering or who were members of the Corporation.

Companies.—C. 83 amends the Quebec Companies Act (R.S. c. 223) by adding provisions concerning the approval of by-laws which henceforth must be, as well as amendments thereof, approved by the Cabinet and come into force only after publication of a notice of such approval in the *Quebec Official Gazette*, and the making of annual reports giving, *inter alia*, the exact location of the head office of the corporation, the names in full of its members, the names and addresses of its directors, a list of the real estate held by it, and any other information which may be required by an Order in Council, published in the *Quebec Official Gazette*. Failure to comply with these provisions is punished by a fine of $20 for each day of default, and costs. The Attorney-General may require additional returns, failure to make which subjects to the same penalties. The Cabinet may order an inquiry into the affairs of corporation, to be made by persons having the power of commissioners appointed under the Public Inquiry Commission Act (R.S. c. 8). A corporation's letters patent may be cancelled by a judge of the Superior Court on petition of the Attorney-General based on grounds of public interest.

This chapter applies also to amusement clubs (R.S. c. 257) and national benefit societies (R.S. c. 258), but not to religious corporations.

Special Corporate Powers.—By c. 84, the trustee appointed under R.S. c. 227, and any partnership or corporation of which he is a member, are prohibited from becoming purchasers of bonds, debentures or debenture stock mortgaged or pledged to them.

Security Frauds Prevention.—By c. 85, it is provided that whenever, in an action brought under 20 Geo. 5, c. 88, proof is required that a person or company is not registered, a certificate signed by the Registrar shall be evidence of the existence of registration of such person or company. No broker or salesman must engage in the business of trading in any security issued by a security issuer, when all or part of the proceeds of the sale must be transmitted to such security issuer, prior to a copy having been deposited in the Registrar's office of the last prospectus or return filed by the issuer, together with a declaration stating the price and conditions of purchase by the broker or salesman and the price at which such broker or salesman must sell such security or otherwise dispose of the same, or the commission payable to the broker or salesman in respect thereto. No broker or salesman must engage in the business of trading in securities prior to having received a written notice of his registration. Failure, without reasonable excuse, to comply with the provisions of the Act constitutes an offence.

Unclaimed Goods Sales.—By c. 94, amending R.S. c. 266, fur merchants, the owners of fur making and repairing workshops, and, generally, all those who trade in and repair furs, in possession of articles deposited in their custody to be repaired or altered, subject to remuneration, may, if the articles are not claimed within eighteen months following their deposit, cause them to be sold by auction upon giving the notices provided by the Act, and may retain out of the proceeds of the sale the cost of the notice and sale as well as of repairing, altering and storing, and deposit the balance, if any, in accordance with the Treasury Department Act (R.S. c. 20, s. 56).

Collecting Agents.—By c. 95, " collecting agent " means a person whose business is the collecting, either by himself or through a representative, of debts owing to other persons, partnerships or corporations. Anyone desiring to act as such must previously give security in the sum of $5000 to the prothonotary of the Superior Court of the district of his domicile, guaranteeing the return to his clients of the moneys collected for them. Such security must be furnished by means of a guarantee policy issued by an authorized company, containing renunciation to the benefit of discussion. The bond cannot be terminated before the last day of April following the date of the issue of the policy, and the collector must cease to act as soon as his policy lapses. The provision is applicable to collecting agents, whose place of business is outside of the Province. The client to whom his money is not returned may sue the surety. Every person contravening the provisions of the Act may, in addition to any penalty enacted by law, be condemned to a fine not exceeding $200, and in default of payment of such fine and costs, to imprisonment for not more than three months. The Act does not apply to solicitors, notaries, regular employees of business establishments, banks, insurance or trust companies, bailiffs, administrators of estates, public service companies, municipal or school corporations, nor to their employees in the performance of their duties.

Moratorium.—By c. 99, no action in recovery of a mortgage or of the balance of purchase price of real estate may be taken or continued unless thirty days' notice has been given to the debtor. During that time the debtor may apply to the Superior Court for delay of payment, upon showing that he has paid all taxes except those of the current year, and all fire insurance premiums and interest due, and that he is unable to pay. The vendor with right of redemption may likewise have the delay for redemption extended. No delay is granted in either case if the creditor cannot reasonably wait. The Act has been subsequently extended to May 1, 1935, and will be extended for a further period.

Married Women.—By c. 102, a wife may be authorized to become a public trader, but for all that relates to her trade she does not bind her husband, even if there is community between them.

Instalment Sales.—By c. 107, notwithstanding any agreement to the contrary, in the case of a sale on the instalment plan, any creditor of the purchaser is entitled to make payment of the balance of the price of sale due to the vendor and the thing sold on the instalment plan then becomes the property of the purchaser. The creditor who has paid such balance is entitled to the rank of an unpaid vendor upon the proceeds of the thing sold. When the vendor has taken back the thing sold for non-compliance with the clauses of the contract, the purchaser or his creditor may, within twenty days, take back the thing sold upon payment of the balance due and of the expenses incurred by the vendor for the taking back and preservation of the thing sold.

Presumption of Death of Insured Party.—By c. 111, when a claim is made upon an insurer for payment of the sum provided for in a contract of insurance and the person whose life is insured has disappeared from the place of his domicile or residence, and has not been heard of for a period of seven years, the insurer, the beneficiary or the legal representative may, whether suit has been taken or not, obtain from the court a declaration of the death of such person, provided that no other litigious matter arise concerning the contract of insurance. The remaining sections of the Act indicate the procedure to be followed.

Municipal Code.—By c. 120, joint stock companies owning real estate shall be entered on the voters' list and may vote through a representative of the company authorized to that effect by resolution, copy of which shall be filed with the secretary-treasurer at least ten days before voting days. Such representative must be a director or employee of the company and a British subject. Such right to vote is only exercisable when by-laws are submitted for the approval of the electors and the company is not completely exempted from taxes on real estate.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

Acts passed: Public—85; Private—8.

Companies.—No. 21 is a revision of the Companies Act, c. 93 of the Revised Statutes of 1930, which was largely founded upon the English Companies (Consolidation) Act, 1908. In 1929 the Imperial legislation was consolidated in the Companies Act, 1929, and that Act has been followed to a considerable extent in the new Saskatchewan Act.

One of the chief aims of the new Act is the better protection of the

investing public and shareholders, and a number of provisions which may appear very exacting have been inserted for that purpose.

The provisions governing shares without nominal or par value, introduced in 1929, have been retained, while quite a new feature is the inclusion of provisions for an issue of redeemable preference shares, reproduced almost verbatim from the Imperial Act. The provisions of that Act respecting accounts and balance-sheets have also been included, as well as provisions authorizing the court to sanction arrangements and schemes between a company and its creditors or for the purposes of or in connexion with the reconstruction of a company or the amalgamation of two or more companies.

In addition to the foregoing, there are numerous instances in which existing provisions have been expanded or supplemented, with important results.

The provisions governing local companies and those affecting "extra-provincial companies" have been separated and placed in different parts of the Act.

Insurance.—The provisions of the Saskatchewan Insurance Act governing automobile insurance have been repealed and substituted by uniform provisions (No. 22) which have been adopted by all the Provinces, with one exception.

Consolidation of Taxes.—The Tax Arrears Consolidation Act (No. 36), a new measure, provides for the consolidation of taxes which are in arrear for two years or more, and for payment of the amount consolidated by instalments, with interest, spread over a period of five years. Any town, village or rural municipality may, before a specified date, withdraw from the provisions of the Act, and the Act does not apply to any city unless it invokes the provisions of the Act.

Marriage.—No. 59 is a revision of the Marriage Act. Provision is made for the registration of all clergymen authorized by the Act to solemnize marriage and unregistered persons are prohibited from performing the ceremony. Another new provision requires the production, by the male applicant for a marriage licence, of a health certificate, given by a medical practitioner, stating that the applicant is not an idiot or imbecile within the meaning of the Mental Diseases Act, is not suffering from chronic mental disease and is not suffering from a communicable disease, as defined by the Public Health Act, which is in a communicable state.

Every marriage solemnized in the Province prior to the commencement of the Act, between persons not under legal disqualification to contract marriage, is declared to be a lawful and valid marriage in so far as it affects the civil rights in the Province of the parties and their issue, and in respect of all matters within the jurisdiction of the Province, notwithstanding that any of the formalities required by law were not observed, provided that the parties thereafter lived together and cohabited as husband and wife, and that the validity of the marriage has not been questioned in any suit or action before the date upon which the Act comes into force; and the issue of the marriage is for all purposes declared to have been legitimate from the time of birth, but this provision does not affect any right, title or interest in or to property, where the right, title or interest was vested in any person prior to the commencement of the Act.

Vehicles.—The Vehicles Act has been amended (No. 67) by the inclusion of extensive provisions respecting the financial responsibility of

owners and drivers of motor vehicles. Where a judgment for damages occasioned by a motor vehicle is not satisfied within a specified time, the Minister is directed to suspend the driver's licence issued to the person against whom the judgment is rendered and the registration of every motor vehicle registered in his name, and the licence and registration remain suspended until the judgment is satisfied or discharged as required by the Act and the person liable gives proof of his financial responsibility for future motor vehicle accidents.

Proof of financial responsibility may be given by means of (*a*) a certificate of an authorized insurance company that it has issued to, or for the benefit of, the insured named therein, a motor vehicle liability policy or policies, in form required by the Saskatchewan Insurance Act, which are in full force and effect; (*b*) a bond of a guarantee insurance or surety company, payable to the Provincial Treasurer, conditioned for payment of the required amounts; or (*c*) a certificate of the Provincial Treasurer that the person named therein has deposited a sum of money or security for money of the required amount.

Proof of financial responsibility must be given in at least the following amounts, namely, (*a*) at least $5,000, exclusive of interest and costs, for bodily injury to or the death of any one person and, subject to such limit for any one person so injured or killed, at least $10,000, exclusive of interest and costs, for bodily injury to or death of two or more persons in any one accident; and (*b*) at least $1,000, exclusive of interest and costs, for damage to property, except property carried in or upon the motor vehicle, resulting from any one accident.

Change of Name.—No. 81 establishes a simple procedure by which a person may change his name and provides that after the Act comes into force no change of name shall have any effect unless it is made in accordance with the provisions of the Act.

Applications are made to the Provincial Secretary who is authorized to register the same. Upon registration, a certificate of change of name is entered in the Change of Name Register and a copy of the certificate is forwarded to the Registrar-General of Vital Statistics, who is directed to alter his records.

Registration of the change of surname of a married man or a widower or a widow also effects a like change in the surname of the wife of such married man and in the surname of each of the unmarried infant children of such married man or widower or widow as the case may be.

Debt Adjustment.—The protective provisions of the Debt Adjustment Act, passed in 1932 and noted in a previous summary,[1] have been considerably widened in their scope and application by Nos. 82 and 83.

11. NEWFOUNDLAND.

[*Contributed by* Brian Dunfield, Esq., K.C., *Secretary for Justice.*]

Seventy Acts were passed at the session of the Legislature held in the spring of 1933, but a very large number of these are of purely local interest, or deal with matters of detail; and only the following are likely to be of any interest to other parts of the Empire:

Public Utilities Commission.—C. 10 strengthens Act 20 Geo. 5, c. 9, which established a Public Utilities Commission, by empowering the

[1] See *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 53.

Commission to make orders fixing tolls, rates, fares and premiums to be charged by public utility enterprises, in which term fire insurance companies are included, and for the enforcement of such rates, etc.

Innkeepers.—C. 18 follows the English law in relation to the protection of innkeepers and their lien on the goods of a guest. Provision is also made for the keeping of proper registers of guests.

Liquor Control.—C. 19 is in the main a revision and consolidation of the existing law on the subject of alcoholic liquors, the original Act having been somewhat diffuse and ill constructed. Substantial amendments are as follows:

The Board of Liquor Control may now consist of two persons instead of three (s. 3). The Board may now open branches in St. John's for the sale of wines and beers (but not spirits) in closed containers (s. 14). The Board may establish a delivery service in St. John's (s. 15). Keepers of restaurants may now sell wine or beer with meals between 9 a.m. and midnight by permission of the Board (s. 24). The latest hour of sale at government stores may now be fixed by the Governor in Council (s. 25). It was found in practice that the closing of stores at a comparatively early hour, especially on Saturdays, as required by the previous Acts, tended to encourage the illicit obtaining of liquor by persons whose working hours prevented them from purchasing at the stores during the hours of opening. The scale of fines is greatly altered, and in this connexion a distinction is drawn between what may be entitled the casual offender and the offender who is deemed by the court to have been carrying on a course of dealing in liquor for profit (s. 57). Where premises have been interdicted under the provisions carried forward from the former Acts the police may affix a label to said premises visible from the street, which is to be maintained in view during the period of interdiction (s. 69).

Accident Insurance Companies.—C. 20 brings within the ambit of c. 195 of the Consolidated Statutes (which deals with the licensing of accident guarantee and fidelity insurance companies) three other minor species of insurance which have come into prominence since that chapter was passed, namely, motor car insurance, riot insurance and insurance on plate glass. The schedule is modified accordingly.

Judicature.—C. 21 provides for the re-sealing in Newfoundland of letters of probate and administration granted elsewhere in the British Empire or in a British court in a foreign country, subject always to reciprocity. It follows the lines of the (Imperial) Colonial Probates Act, 1892. Heretofore only United Kingdom or Irish probates, etc., could be re-sealed, ancillary administration being taken in other cases.

Summary Jurisdiction.—C. 22 repairs a defect in the Summary Jurisdiction Act, 1930, by providing specifically for the summary trial of attempts to commit offences triable summarily. It also renders possible summary trial in the territory of Labrador of certain offences which require trial by jury in Newfoundland.

Justices of the Peace.—C. 23 reorganizes the system of appointment of justices of the peace. Heretofore they were appointed indiscriminately by the Governor in Council for the whole island, but it was found that too many were appointed and that there was not sufficient regard for geographical distribution, and that their qualifications were not always satisfactory and generally that the system required improvement. Hereafter a quota of justices will be fixed and distributed in each magisterial district, and a Commission of the Peace will be issued for each

such district; the intention being that when a suitable bench has been selected and approved, new appointments will be made only in the case of vacancy.

Trustees.—S. 1 of c. 25 adds to the list of investments by trustees, first mortgages on lands within the city of St. John's. S. 2 makes a consequential amendment. S. 3 enables trustees to lend on mortgage for not more than seven years' term.

Department of Public Works.—C. 27 enables the Minister of Public Works to control or prevent the erection of unsightly signs or hoardings near the public highways.

Local Government.—C. 29 is an Act designed to enable the Governor in Council to make a beginning in the introduction of local government outside St. John's. The Governor in Council may erect towns, villages or divisions into corporations, governed by councils. The first councils are to be appointed; and after that, if the people so desire it, there may be a change to an elective system. Councils are to hold office for two years. The Act provides who may and who may not be members of councils and makes general provision for management, revenue, expenditure and powers. A few areas are excepted from the operation of the Act at the instance of the Anglo-Newfoundland Development Company, Limited, as the places in question are upon the company's own land and their municipal affairs are already dealt with by the company.

Crown Lands.—Ss. 2, 3 and 4 of c. 31 provide for the issue of fee simple grants, etc., to persons who have been in occupancy of land for five years and have cultivated the same to a certain extent. S. 5 permits companies other than those incorporated in Newfoundland to have miners' permits. S. 6 (1) provides that where two or more contiguous mining claims are staked it will be necessary to mark only the outside lines of the block. S. 6 (2) enlarges the claim from 40 acres to 160. S. 6 (3) permits a prospector who may not be equipped for running astronomical lines to stake by means of a central post. S. 7 is consequential on the last amendment, and provides for the delimitation of claims staked by central post. S. 8 gives a claim holder six months instead of three months from the time of recording to do his first thirty days' assessment work. S. 9 makes it clear that water powers above 150 horse-power are not to be deemed part of a mining claim. S. 10 excepts Labrador from the provisions of s. 142 of the Crown Lands Act, 1930 (prohibiting the export of manufactured timber). S. 11 makes an alteration in the saw mill royalties.

Agricultural Societies.—C. 36 provides a simple process of incorporation for agricultural societies of ten or more persons. It is passed in connexion with the present effort to encourage agriculture as a remedy for unemployment.

Artificial Fertilizers.—C. 39, modelled on the Canadian Act, provides for the control of the importation of artificial fertilizers, in order to protect the public against inferior quality and adulteration. It establishes standards for the chemical contents of various fertilizing substances. Provision is made for inspection, for the taking of samples and for the tagging or branding of packages of fertilizer with certain information as to its nature. Penalties are provided for adulteration and for obstructing inspection, and power is taken to make regulations.

Abandoned Lands.—There are in the Colony considerable areas of land, granted, leased or licensed by the Crown, the owners, lessees or

licensees of which have died without issue or left the Dominion or cannot now be found. C. 45 provides a form of procedure whereby a decision can be obtained from the Supreme Court that the land is abandoned and falls back to the Crown, thus becoming available for re-grant and for settlement.

Salt Codfish.—It has been found necessary to control the sale of salt codfish with a view to (*a*) bringing about closer co-operation between exporters and preventing the glutting of the several markets; (*b*) grading the fish better than heretofore; (*c*) improving the cure and quality of the fish; (*d*) controlling the methods of packing; (*e*) providing inspection and branding; (*f*) compelling the culling of fish as between the fisherman and the merchant.

A similar system was contemplated by the Salt Codfish Act of 1931, but did not come into operation. Under the present Act (c. 49) a Board has been constituted, consisting up to the present of the chairman only, and is now acting in consultation with leading exporters for the control of export. The system of purchasing fish from the fishermen without culling has been abolished and propaganda is being carried on with a view to the improvement of the cure. The system is not yet in full working order, but should be so next year.

Culling of Codfish.—C. 50 replaces c. 160 of the Consolidated Statutes (Third Series) dealing with the culling of codfish. Cullers of codfish are now to be licensed by the Board constituted under the Salt Codfish Act, 1933. S. 4 makes it an offence for an unlicensed person to act as culler, and s. 5 compels cullers to act at a rate of remuneration fixed by the Board. Cullers are to be sworn before a stipendiary magistrate or a justice of the peace.

It may be explained that culling is the assortment of dry salt codfish into the several recognized grades.

Subsidized Corporations and Institutions.—There are various charitable corporations, such as, for example, local hospitals, to which the Government contributes substantial subsidies. C. 55 enables the Government to obtain representation on the managing boards of such institutions. There are also certain commercial enterprises of various kinds which have in the past been assisted by guarantees of the principal or interest of their stock or bonds; in these cases also the Government is enabled to have representation upon the managing boards. They are required to furnish accounts annually. In addition to this, the provisions of the old c. 31 Consolidated Statutes (Third Series) are brought forward.

Customs.—C. 57 is a consolidation of the various past Acts mentioned in Schedule C without very much amendment. The enactments on the subject have been classified and re-enacted in a more systematic manner than heretofore.

The number of material amendments is not great. The following are those worthy of note: In view of modern developments "aircraft" have been brought within the scope of the word "vessel" (s. 1). Under our former system goods might be warehoused for two years and then re-warehoused and so on, and the Customs complain that there are goods scattered about the city of St. John's which have been warehoused and re-warehoused for very long periods, with the result that there is very great inconvenience in keeping account of them and that the Dominion does not get the duty. The new s. 45, which follows the Canadian Act,

requires a definite clearance of goods from warehouse at the end of two years. S. 46 permits an importer to abandon to the Crown warehoused goods which he sees no hope of selling at a price sufficient to cover the duty. This also is an addition. Under s. 70 the Governor in Council fixes the rates of exchange for foreign currencies. Where they have not been fixed there is taken the certificate of a British Consul or a bank, either in the country of exportation or in Newfoundland, showing the actual rate of exchange. S. 71 may be called the anti-dumping section. Under the former anti-dumping section measures could be taken only against goods of a kind manufactured in Newfoundland, but under this section measures can be taken against goods which unreasonably undersell any British Empire producers or manufacturers, including Newfoundland producers or manufacturers. S. 73 deals with the rates of duty on certain articles in respect to which there are list prices and also recognized list discounts. The section formerly dealt with a few specific items such as sewing-machines, but it has been widened so as to cover all articles handled in this way. S. 75 formerly began, "The fair market value." This has been changed to "Current domestic value" to comply with other parts of the Act. The former sections on this subject (ss. 79–82) were very confused and difficult to follow, and it was not clear what rights exactly an importer had to obtain a reappraisal or what the procedure was. The sections were 66 to 71 in the 1916 Act. It has now been made clear that the importer has his choice between two processes: first, a reappraisal by the customs officer upon evidence taken, or, secondly, a reappraisal by a board of three upon evidence taken; but he may not have both, although the customs officer, if he thinks it necessary, may have recourse to the method of reappraisal by a board of three. Subsections (2), (3), (4) and (5) are new and are intended to put an end to the practice of "rum-runners" coming into ports on the west coast ostensibly in distress, but in reality to get their orders, and subsequently landing the spirits on our coasts. We have now adopted the system in vogue in Canada. A ship bringing in spirits must land them, after which they can be entered outwards only for export to some specific port or place overseas and only in a vessel of two hundred tons or over. This will prevent the spirits going out again in the small rum-runner of twenty or thirty tons, and in practice a rum-runner coming into Port aux Basques would have to ship his goods overland to St. John's and ship them out again by steamer to a foreign port before he could again obtain possession of them. This should make smuggling on our western coast much more difficult. An exception is made in the case of St. John's, whence clearance may still be given to the high seas. S. 116 is intended to deal with the uncertain situation of things in the unorganized territory of Labrador and is meant to give the Governor in Council power practically to create any customs system he wishes for Labrador. Ss. 167–239 deal with penalties. All the penalties in the Act have been collected together and, where they were formerly incorporated in sections, extracted from those sections and put by themselves under suitable headings. Sections have in many cases been reworded so as to make sure of the application of the penalty.

War Pensions.—C. 64 provides a scale of reductions in war pensions. This is rendered necessary by the present financial stringency. Under s. 6 a woman marrying an ex-member of the forces after the date of this Act shall not, nor shall her children, be entitled to pension.

Royal Commission's Report.—In the autumn of 1933 a Royal Commission, whereof Lord Amulree was chairman, reported on the affairs of Newfoundland, one of its conclusions being that the Colony could not continue to meet its obligations unless it were relieved of some part of the burden of the national debt. The Royal Commission also recommended the temporary institution of a form of government by commission. This plan being agreed to by the British and Newfoundland Governments, arrangements were made for the conversion of the Newfoundland national debt, excluding certain issues which are trustee securities, into 3 per cent. sterling bonds guaranteed by His Majesty's Government in Great Britain. The Legislature of Newfoundland, therefore, met again in November and passed an Address to His Majesty the King, asking that the recommendations of the Royal Commission's Report be put into effect. The Legislature also passed one Act, whereof the following is an abstract:

Government Securities.—C. 1 is an Act to provide for the issue of certain securities on the credit of the Dominion, for the postponement of certain securities of the Dominion, and for the giving of priority to certain other securities thereof, and was passed for the purpose of giving effect to the proposal of His Majesty's Government in Great Britain for converting the existing debenture issues of Newfoundland, with certain exceptions, into a single new debenture issue guaranteed by His Majesty's Government in Great Britain and bearing interest at a uniform rate of 3 per cent. as against the varying rates now payable upon the numerous issues now outstanding.

The general scheme is that the holders of issues to be converted are given the choice of exchanging their bonds for bonds of the new issue, or of having payments to them deferred for an indefinite period.

S. 1 postpones the coming into operation of the Act until the coming into operation of the Act of the United Kingdom authorizing the Commissioner of His Majesty's Treasury in the United Kingdom to give a guarantee in respect of the new stock. Such an Act has since been passed by the Parliament of the United Kingdom. S. 2 empowers the issue of stock in pounds sterling and specifies the purposes for which the moneys so raised may be used. It makes the stock a first charge upon the revenue and assets of Newfoundland except as otherwise provided in relation to stocks which are trustee stocks in the United Kingdom. There is also power to borrow temporarily in order to pay off outstanding indebtedness pending the raising of money by the issue of the new stock. This renders possible a saving of interest in the meantime, and is understood to apply mainly to the indebtedness of Newfoundland to certain banks. S. 3 fixes the rate of interest at not more than 3 per cent. per annum, fixes the redemption dates and provides for the Sinking Fund to commence on July 1, 1938. It also makes the stock tax-free when held by persons not domiciled or resident in Newfoundland, and gives the Bank of England the management of the stock. S. 4 gives the Governor in Council, and under him the Bank of England, power to determine the conditions of issue and to manage the issue and the Sinking Fund. Subsection (1) (*b*) is of importance, as it gives power to make the interest on the new bonds payable as from July 1, 1933, so that holders of bonds may receive in respect of that period interest at 3 per cent. in substitution for the interest which the bonds would otherwise have carried. S. 5 provides the means of virtual enforcement of the conversion of non-trustee bonds

into the new stock. The bonds are not invalidated, but payment of principal and interest upon them is deferred so long as advances, whether by way of grant or loan, are made to Newfoundland by the United Kingdom and so long as the Treasury of the United Kingdom is liable for any payment in respect of its guarantee. S. 6 gives a special priority to those stocks which are trustee securities in the United Kingdom. These stocks are not subject to the deferment of interest and principal. The First Schedule enumerates or defines stocks which are to be subject to the process of deferment hereinbefore referred to; and the Second Schedule enumerates the trustee stocks.

Commission of Government.—An Act was passed by the Parliament of Great Britain and Northern Ireland, which, of course, may be found in the usual official publications.

A Commission of Government was accordingly created by His Majesty, consisting of His Excellency the Governor, three Commissioners from Great Britain and three from Newfoundland, which will for the time being constitute the legislative as well as the executive authority of the Colony. This Commission of Government was installed on February 17, 1934.

It may be noted that as from the commencement of the Commission Government, Acts will in future be cited as "No. —— of 1934," or as the case may be, instead of by regnal years as heretofore, this method being more convenient for reference.

12. BERMUDA.

Acts passed—50.

Juvenile Offenders.—No. 2 makes provision for dealing with juvenile offenders with a view to improving their present condition and enabling them to become well-conducted members of the community.

Liquor Licences.—No. 8 permits the holders of hotel licences to sell intoxicating liquors to persons other than lodgers during certain restricted hours on Sundays, Christmas Day and Good Friday.

Stamp Duties.—Liability to a fine of £10 on summary conviction is imposed by No. 10 on any person who fails to stamp an instrument in due manner required by the Act.

Criminal Code.—No. 12 increases the punishment for certain offences tried summarily and extends the limitation of time for commencing summary prosecutions.

Appeals.—No. 14 extends the provisions of the Appeals Act, 1905, to appeals from the judgment of an inferior court in all criminal and civil causes and matters.

Board of Trade.—No. 15 exempts vessels exclusively employed in scientific voyages and not in any way engaged in trade from payment of pilotage rates.

Immigration.—No. 19 makes it an offence for any person, firm or body corporate, knowingly and wilfully without the previous sanction of the Board, to engage or employ any person who has landed in the Islands in contravention of the Act or by offer or promises of employment causes any person to land in the Islands for the purpose of seeking or taking employment or engaging in business. The Act also provides for the deportation of any stowaway or deserter if the Board considers desirable.

Patents.—No. 20 amends s. 17 of the Patents, Designs and Trade Marks Act, 1930, with respect to patents granted in the United Kingdom,

and provides that the grounds upon which exclusive privileges and rights conferred by the certificate have not been acquired include the manufacture, use or sale of the invention in Bermuda prior to the date of the patent in the United Kingdom, but do not include the manufacture, use or sale of the invention in Bermuda by some person or persons after the date of the patent in the United Kingdom and prior to the date of the issue of the certificate of registration under s. 17.

Public Health.—The provision of s. 2 of the Public Health Act, 1932, amending s. 110 of the principal Act, that any of H.M. ships and auxiliaries may be granted pratique by wireless upon the observance of the commander of the conditions specified in that section, is extended by No. 22 to passenger ships regularly trading with the Islands.

Legitimacy.—No. 24 provides for the legitimation of children born out of wedlock whose parents subsequently marry one another.

Savings Banks.—No. 33 removes the limit on the amount of deposits in the Bermuda Savings Bank whereon interest is payable, and increases the amounts which may be deposited in any one year.

Nuisances.—No. 39 provides for the abatement of nuisances caused by the unrestricted use of radio and other sound-producing and reproducing devices by making it an offence for any person being in possession or occupation of any premises to keep or allow therein any radio or phonograph which between the hours of midnight and 6 a.m. annoys or disturbs any person therein or in the vicinity.

Companies.—No. 41 provides that joint stock companies holding shares in another company may vote at meetings of that other company, and makes provision for certain stamp duties on joint stock companies incorporated in Bermuda.

Designs.—No. 50 provides that the proprietor of any design registered in the United Kingdom shall enjoy in Bermuda the same privileges and rights as though the certificate of registration had been issued with an extension to Bermuda. It also provides that no damages for infringement of copyright may be recovered from a defendant who proves that at the date of the infringement he was not aware nor had any reasonable means of making himself aware of the existence of the registration of the design; nothing in this section, however, affects any proceedings for an injunction. The court is given power, upon the application of any person who alleges that his interests have been prejudicially affected, to declare that exclusive privileges and rights in a design have not been acquired in Bermuda under the provisions of this Act upon any grounds upon which the United Kingdom registration might be cancelled under the law for the time being in force in the United Kingdom.

III. THE COMMONWEALTH OF AUSTRALIA.

[*Contributed by* GEORGE S. KNOWLES, ESQ.]

Acts passed—74.

Parliament devoted a considerable portion of the year to measures relating to customs and excise tariffs and to trade and commerce. Many legislative measures were also necessary to give effect to the Budget, which contained several proposals for lightening the incidence of taxation

and for a partial restoration of pensions, salaries and allowances which had been reduced under financial emergency legislation of previous years.

Assistance to States.—The following grants were made to the States during the year, namely, £1,150,000 to South Australia (Act No. 70), £600,000 to Western Australia (Act No. 71) and, in addition to the sum of £250,000 already granted under Act No. 23 of 1929, £130,000 to Tasmania (Act. No. 72). The Wheat Growers' Relief Act (No. 42) provides for the payment of amounts aggregating approximately £3,000,000 to the States for the provision of relief to wheat growers.

The Fruit Growers' Relief Act (No. 39) provides for the grant of financial assistance to the States to be applied for the benefit and assistance of necessitous fruit growers, the total amount so granted being £125,000.

The Commonwealth Grants Commission Act (No. 3) establishes a Commonwealth Grants Commission, consisting of three members, whose functions will include the investigation of applications by the States for assistance. The reports of the Commission may be laid before Parliament and shall be laid before Parliament before any proposed law relating to the subject of the reports is introduced.

Bankruptcy.—Act No. 66 is principally concerned with the relief of debtors under certain State Acts. S. 2 provides that every affidavit verifying a creditor's petition and every statement of affairs filed at the time of the presentation of a debtor's petition shall disclose whether the debtor is a person in respect of whose affairs proceedings have been instituted under certain specified State or territorial laws providing for the management, administration or control of the business, property or affairs of the debtor. If the debtor is such a person, the Registrar is to notify the authority charged with the administration of those laws of the presentation of the petition and that authority may apply to the court for an order staying the proceedings under the petition. S. 4 relates to the transfer of trusteeships where trustees of a large number of estates desire to resign their offices.

Bounties.—The Iron and Steel Products Bounty Act (No. 28) enables an increase in the bounty on traction engines to be paid where decreased customs duties on those articles have been introduced.

Cockatoo Island Dockyard.—Act No. 73 ratifies an Agreement made on February 3, 1933, relating to the lease of the Cockatoo Island Dockyard to a private company. The dockyard has hitherto been conducted by the Australian Commonwealth Shipping Board, a corporation established by the Commonwealth.

Copyright.—A Royal Commission appointed in 1932 to inquire, *inter alia*, into the performance in public of musical works and records, had recommended the appointment of a tribunal to determine disputes between the owners of copyright in musical works and persons desirous of using those works. Act No. 68 provides means for voluntary arbitration in such disputes.

Customs and Excise Tariffs.—The Customs Tariff (No. 27) is the first complete tariff enacted since 1921. The new tariff gives effect to certain undertakings contained in the Agreement signed at Ottawa in 1932. The tariff was altered later in the year by an amending tariff (No. 31). Under this Act, the reductions made in the Budget on such goods as beer, spirits, tea and rubber are ratified. Two Acts were passed relating to excise tariffs. These Acts (Nos. 20 and 21) deal with excise duty on beer,

brandy, whisky, rum, gin, liqueurs, spirits, wine, tobacco and allied goods, petroleum and shale products, playing cards and matches.

The Customs Tariff (Exchange Adjustment) Act (No. 29) provides for adjustments in duties of customs consequent upon the depreciation in value of Australian currency in relation to the currencies of countries to the goods of which the British Preferential Tariff applies. Where Australian currency is depreciated not less than 16⅔ per cent. in relation to the currency of the British country from which goods are imported, a deduction is to be made of one-fourth of the duty on the goods or 12½ per cent. of the value for duty of the goods, whichever is the less. Where the depreciation is not less than 11⅑ per cent. and less than 16⅔ per cent., a deduction is to be made of one-eighth of the duty, or 6¼ per cent. of the value for duty, whichever is the less.

The Customs Tariff (Industries Preservation) Act (No. 30) provides for the imposition of a special duty on goods where the exchange value of the currency of the country of origin of the goods has depreciated in relation to Australian currency and by reason of such depreciation goods have been or are being sold to an importer at prices which will be detrimental to an Australian industry.

The Customs Tariff (New Zealand Preference) Agreement Act (No. 24) ratifies an agreement dated September 5, 1933, between the Commonwealth and New Zealand in relation to preferential duties of customs upon goods imported from one Dominion into the other.

The Customs Tariff (New Zealand Preference) Act (No. 26) is complementary to the Act ratifying the agreement between Australia and New Zealand. Act No. 26 carries into effect the alterations in the Australian customs tariff provided for in that agreement.

The Tariff Board Act (No. 69) prescribes the salary of the chairman of the Board.

Extradition.—Act No. 35 brings the Commonwealth Act of 1903 up to date by providing for the adoption of the British Extradition Acts passed in 1906 and 1932. The procedure adopted for the Commonwealth in relation to the surrender of fugitive criminals is also made operative in Papua and Norfolk Island by including those Territories within the meaning of the term " Commonwealth."

Finance.—The Financial Relief Act (No. 17) is a comprehensive measure designed to give effect to the Budget proposals. Its objects are to provide for relief to taxpayers and for the amendment of laws enacted in consequence of the financial emergency. The amendment is in the direction of lightening the burdens borne by those subject to financial emergency legislation. Amounts due in respect of land tax are reduced by 50 per cent. The chief alterations in respect of income-tax relate to life insurance companies and overseas shipping. Certain additional exemptions from sales tax are also provided for, and the rate of that tax is reduced from 6 to 5 per cent. Many of the new exemptions relate to articles used by primary producers. Commonwealth entertainments tax is abolished. Part VI of the Act relates to invalid and old-age pensions. Certain restorations of reductions are provided for and provision is made for the automatic variation of the maximum rate of pensions, within certain limits, in accordance with the rise or fall in the retail price index-number for food and groceries. Other sections deal with the property of pensioners. Part VII deals with war pensions. Certain pensions, which were reduced in consequence of financial emergency, have been in part

restored. Part VIII covers salaries and wages. A partial restoration of the reductions in the salaries of public servants is provided for. Public servants had already benefited by the Financial Emergency Act (No. 6) which enabled a new method of computing cost of living variations to be applied and, in consequence, prevented an automatic reduction from July 1, 1933. Provision is also made in the Financial Relief Act, 1934, for a partial restoration of parliamentary allowances and Ministers' salaries and for the repeal of the section providing for the reduction of the Commonwealth's share of superannuation payments.

Immigration.—Act No. 37 empowers certain officers to require and take security for compliance with the provisions of the principal Immigration Act or with any conditions imposed in pursuance of that Act or the Regulations.

Industrial Property.—The Designs Act (No. 36) removes certain time limits within which applications under s. 26 for the re-registration of designs had to be made. The Patents Act (No. 57) amends s. 68 in order to permit of the grant of a patent to the legal representative in cases where the original applicant dies before the sealing of the patent. The extension of the Patents Act to Norfolk Island by proclamation is also provided for.

Inscribed Stock.—The Commonwealth Inscribed Stock Act (No. 5) relates to the date of redemption of stock and to the transfer of stock by means of instruments which are not necessarily deeds.

Institute of Anatomy.—The Australian Institute of Anatomy Agreement Act (No. 12) authorizes the treasurer to enter into agreements with regard to monetary gifts contributed for the purposes of the institute.

Invalid and Old Age Pensions.—Under the Financial Relief Act (No. 17) concessions were made to pensioners, and, while that measure was before the House, a promise was given that the property provisions of the Invalid and Old Age Pensions Act would be further considered later in the year. Act No. 56 gives effect to the decisions of the Government upon such further consideration. The provisions of the Act relating to undertakings from claimants and pensioners in relation to the transfer, etc., of property, the charge in favour of the Commonwealth and the necessity for inquiries as to whether a proposed transferor or mortgagor is a pensioner are abolished. The Commonwealth's claim in respect of pensions paid will in future be of the nature of a debt recoverable after the funeral and testamentary expenses and debts of the pensioner have been satisfied.

Judiciary.—The Judiciary Act (No. 65) reduces the number of justices of the High Court from seven to six. Actually, there have not been more than six justices since 1931.

Interest on judgment debts is, by the High Court Procedure Act (No. 63), reduced from 7 to 5 per cent.

Migrant Settlement.—The Migrant Settlement Agreement Act (No. 32) approves of an agreement between the Commonwealth and the State of Victoria for the reference to arbitration of the question whether the Commonwealth is under any liability to pay any portion of the compensation payable to certain British migrants who settled in Victoria.

Public Service.—An important innovation with regard to the recruiting of candidates for the Commonwealth Public Service was effected by the Commonwealth Public Service Act (No. 38). In this Act provision is made for the appointment of a limited number of university graduates

to the Public Service without examination. The number appointed is not to exceed 10 per cent. of the number of vacant positions in the Third Division of the Public Service.

The Officers' Rights Declaration Act (No. 19) extends the scope of the Act to cover certain persons who formerly held office in the Northern Territory and who are continued in employment by the Commonwealth or in the Territorial Service.

Royal Commissions.—In 1933 the Government appointed a Royal Commission to inquire into certain matters in relation to mineral oils and petrol and other products of mineral oil. In view of the decision of the Privy Council in the *Colonial Sugar Refining Company's Case*,[1] the Government wished to facilitate the proceedings of the Commission in the direction of requiring and compelling the giving of information on specific subjects in relation to the inquiry for which the Commission was appointed. The Petrol Commission Act (No. 2) accordingly gives the Commission all the powers, rights and privileges which are specified in the Royal Commissions Act, 1902–33, as appertaining to a Royal Commission. The principal Royal Commissions Act itself was amended by the Royal Commissions Act, 1933 (No. 1), with the object of effecting certain improvements relating to the procedure of Commissions. The Act deals with the taking of evidence in private, the powers of Commissions with regard to documents, and the examination of witnesses by counsel.

Seat of Government.—A Supreme Court known as the Supreme Court of the Australian Capital Territory was established for the Territory for the Seat of Government by the Seat of Government Supreme Court Act (No. 34). Prior to the establishment of this court, the High Court of Australia had jurisdiction in relation to the Territory. The jurisdiction of the new court is similar to that exercised by the Supreme Courts of the States and from its decisions an appeal lies to the High Court.

The Seat of Government (Administration) Act (No. 4) provides for the validation of the issue of certain Crown grants, and certain other matters relating to land in the Territory for the Seat of Government.

Silver Agreement.—The Silver Agreement Act (No. 62) ratifies and approves of an agreement entered into between the Commonwealth and certain other silver-producing countries providing for the regulation of sales of silver and an agreement between the Commonwealth and the Broken Hill Associated Smelters for the purpose of giving effect to the first-mentioned agreement.

Taxation.—A new form of taxation was instituted during the year, namely, that on flour. The purpose of the tax is to provide some of the money required to grant assistance to wheat growers. The Flour Tax Acts (Nos. 44–46) impose a tax (on and after December 4, 1933, and on or before June 30, 1934, or on or before such earlier date as is fixed by Proclamation) of £4 5*s*. per ton on certain flour. The Flour Tax Assessment Act (No. 43) provides the necessary machinery for the imposition, assessment and collection of the tax.

The Income-tax Assessment Act (No. 40) remedies certain defects in the principal Act. It also removes the tax chargeable on Australian companies upon interest upon debentures raised outside Australia where the interest is paid to absentee debenture holders. The provisions, relating to the averaging of income over a period of years for purposes of tax, are amended, and it is expressly provided that the Board of Review must

[1] [1914] A.C. 237.

state in writing the reasons for its decisions. A flat general exemption of £250 is provided for in regard to the special tax of 6 per cent. on income from property. Act No. 41 prescribes the rates of income-tax for the financial year commencing on July 1, 1934.

A number of Sales Tax Assessment Acts (Acts Nos. 47–55), which are largely of a machinery and administrative nature, were also passed. The Acts re-define wholesale and retail sales, and make it compulsory for manufacturers and wholesale merchants to keep and preserve proper books of accounts.

The Sales Tax Assessment (New Zealand Imports) Act (No. 25) implements the trade agreement between Australia and New Zealand in so far as paragraph 1 of Article XI of the agreement is concerned. Several of the Sales Tax Assessment Acts are amended by this Act in order to provide for the exemption from sales tax of goods the produce or manufacture of New Zealand being goods of the same class or kind as goods upon the sale value of which, if produced or manufactured in Australia, sales tax is not payable.

Territories.—The territorial responsibilities of the Commonwealth were increased during the year by the passage of the Australian Antarctic Territory Acceptance Act (No. 8) and the Ashmore and Cartier Islands Acceptance Act (No. 60). These Acts provide for the acceptance of the Territories mentioned as Territories under the authority of the Commonwealth and for the Government thereof. The Australian Antarctic Territory comprises all the islands and territories, other than Adelie Land, situated south of the 60th degree south latitude and lying between the 160th and the 45th degrees east longitude. The Governor-General has power to make Ordinances having the force of law in and in relation to this Territory. With regard to the Territory of Ashmore and Cartier Islands, the Governor of the State of Western Australia, acting with the advice of the Executive Council of the State, is, subject to the Act, empowered to make Ordinances having the force of law in and in relation to the Territory.

The Northern Territory (Administration) Act (No. 18) conserves the rights of persons who have held office as Government Resident of North or Central Australia.

Trade and Commerce.—The Customs Tariff (New Zealand Preference) Agreement Act (No. 24) has been referred to above. Another Act relating to trade is the Trade Commissioners Act (No. 74) which empowers the Governor-General to appoint one or more Trade Commissioners and Assistant Trade Commissioners of the Commonwealth in various parts of the world. In addition to performing such duties as the Governor-General imposes upon them, the Commissioners are to carry out such instructions as they receive from the Minister relating to the commercial, trading, financial and general interests of the Commonwealth whether in the places where they are stationed or elsewhere (s. 7).

The Commerce (Trade Descriptions) Act (No. 13) enacts a new definition of the term "officer" and makes other amendments consequential on the change in the name of the Department administering the Act to that of the "Department of Commerce."

The Canned Fruits Exports Control Act (No. 9) brings canned pineapples within the scope of the Act and, in consequence, provides for the representation of pineapple canneries on the Canned Fruits Control Board.

The Dairy Produce Act (No. 58) provides for the regulation of the

transfer of butter and cheese from one State to another. The Dried Fruits Act (No. 59) extends the scope of the Dried Fruits Act, 1928, to the following dried fruits, namely, prunes, apricots, peaches, pears and nectarines, with power to the growers of those fruits to have the extension revoked within six months. The result of the extension is that the interstate trade in the dried tree fruits mentioned will be controlled in the manner prescribed in the principal Act.

Wheat.—The Wheat Acquisition Act (No. 67) enables the Commonwealth, in order to give effect to the International Wheat Agreement in so far as Australia is concerned, to purchase, store and sell any wheat which, by reason of the operation of the Agreement, may not be exportable from the Commonwealth. S. 3 provides that, if a surplus of wheat of the 1933–34 season is declared by the Commonwealth Statistician in pursuance of the Act (s. 4), the Commonwealth may, subject to the Act, purchase wheat of a quantity not exceeding in the aggregate the quantity of wheat so declared. The purchase price is to be the world parity price of wheat at the date of purchase (s. 5). After July 31, 1934, the Commonwealth is, by s. 6, authorized to sell any wheat purchased by it under the Act. S. 8 empowers the Minister to arrange with the Commonwealth Bank to make advances to the Commonwealth for the purposes of purchases of wheat. The Wheat Growers' Relief Act (No. 42) has been referred to above.

1. NEW SOUTH WALES.

Acts passed—24.

Dairy Products.—Act No. 17 constitutes a Dairy Products Board consisting of seven members appointed by the Governor, and gives power to the Minister, on consultation with the Board, to determine the quota each manufacturer is permitted to sell in intrastate trade. The Act is complementary to Federal legislation and its object is to stabilize local prices. Similar measures are being passed by the other States.

Dried Fruits.—Act No. 21 reconstitutes the Dried Fruits Board and regulates the industry. It provides for the registration of producers, agents and sellers, and also for packing sheds and dehydrators. Dried tree-fruits are brought under the measure.

Farmers' Relief.—Act No. 24 grants three months' extension, until May 1934, of the time within which farmers may apply for a stay order.

Fines and Penalties.—Act No. 15 abolishes the statutory right of an informer to half the fine, leaving the determination of the right to the court. Where an informer is a member of the police the moiety is paid into the Police Superannuation Fund.

Flour Acquisition.—Act No. 18 removes the tax on flour as from the date of operation of the Federal tax. It extends the power of the Crown to fix the price of flour or bread until December 31, 1934.

Legislative Council Elections.—Acts Nos. 5 and 8 are machinery measures setting out the procedure in elections of members of the Legislative Council.

Public Service Salaries.—Act No. 16 restores to the lower grades part of the reductions made in 1931. It extends the limit of £268 on which rebates were granted in the case of married male employees to £325 and eliminates the reduction in salaries of such officers up to £200 a year.

Small Debts Recovery.—Act No. 14 extends the jurisdiction of the local courts in cases of wrongs independent of contract from £30 to £50. It gives the court the right to deal with claims where the defendant lives 50 miles beyond the border of the State. In all cases of garnishee, £2 a week is reserved for maintenance from wages or salary, including earnings as a share-farmer.

Stamp Duties.—Act No. 12 reduces the stamp duties on contracts, transfers and conveyances of property, transfers of share on sale, bills of exchange and promissory notes, and voluntary settlements. Death duties are also reduced.

Taxation.—The Taxation Reduction Act, No. 11, provides for the reduction in general income-tax and company tax, and for the discontinuance of family endowment contributions. It discontinues the unemployment relief tax and imposes, instead, special income-tax on the net assessable incomes and wages tax on income from wages.

The Special Income and Wages Tax (Management) Act, No. 13, provides the machinery for the collection of a " special income " tax on income other than wages, and of a " wages " tax on wages and salaries, for the relief of unemployment. The definition of employee is widened to include a contractor who provides labour only.

2. QUEENSLAND.

[*Contributed by* J. E. Broadbent, Esq., I.S.O., *Parliamentary Draftsman.*]

During the Parliamentary Session of 1933 which commenced on August 15 and terminated on December 8, thirty-five measures were passed. The provisions of the more important Acts are hereunder set forth :

Industries Assistance and Bureau of Industry.—The Industries Assistance Act of 1929, which was " an Act to foster the development of secondary industries by enabling advances to be made or guaranteed for the assistance of corporations engaged or who may hereafter be engaged in such industries," was widened in its scope by Act No. 16. The restriction as to " secondary industries " has been omitted. The term " works " is also extended to include bridges, viaducts and other structures. Special provisions concern securities for advances where a bank or institution has advanced moneys under Government guarantee. The measure will be administered by the Bureau of Industry, which will be the Industries Assistance Board. As to the Bureau of Industry amendment, the principal Act of 1932 gave the Bureau the status of a corporation. This amending Act will give the Bureau corporate powers, namely, to take, purchase, sell, exchange, lease and hold lands, goods and chattels and other property. With the approval of the Governor in Council the Bureau will have power and authority : (*a*) to construct, establish, manage and control works ; (*b*) to take or acquire, by purchase, lease, grant or otherwise, land for the purposes of the construction of works, and for the establishment, management and control of works.

The Bureau or delegated Crown instrumentality will be a constructing authority under the Public Works Land Resumption Acts. The Bureau, with the authority of the Governor in Council, may borrow money and issue debentures under government guarantee. In pursuance of its powers, authority is given to the Bureau to construct a bridge over the

Brisbane River. This will be a toll bridge, and the franchise for the collection of the toll will be continued until the total repayment of interest and redemption has been met, or until such time as the electors of the State voting by means of referendum approve.

Provision is made for the appointment of a Bridge Board, in which is vested the general supervision of construction and preliminary matters relating to bridge works.

Motor Spirit Vendors.—The object of Act No. 11 is to provide for the regulation of the sale of motor spirit by a system of licensing the vendor under certain conditions. A person, however, who buys motor spirit for sale from a licensee is deemed to be licensed. Provision is made for the application and grant of a licence. The holder of every licence shall during the currency thereof (which is an annual licence subject to renewal) purchase and pay at a prescribed price for a quantity of power alcohol manufactured in Australia not less than a quantity equal to a prescribed number of gallons for every 100 gallons of motor spirit sold by him during the period of such currency.

Provision is made for inspection of books of the licensee, and wide power is given to the Governor in Council to give by regulations full effect to the object and purposes of this Act.

Taxation.—The super land tax is reimposed by Act No. 25 for the financial year 1933–34. In respect of income-tax, the measure clarifies the law as to taxation on the sale of leases and as to deduction for losses.

The Act also grants relief in respect to mining operations, and the tax exemption as to income derived from the working of a mining property principally for the purpose of obtaining gold and copper is extended for a further five years from July 1, 1934. The term " bona fide " prospector is also widened to include a " company " under certain circumstances.

Life Assurance Companies.—The main provisions of Act No. 24 deal with surrender values. A policy holder who desires to discontinue further premium payments on an ordinary life assurance policy or an ordinary endowment assurance policy which has been in force for three years or upwards, or on an industrial whole-life assurance policy which has been in force for four years or upwards shall on application to the company be entitled to receive a surrender value on a prescribed scale less any lien the company may have on its policy.

The amount of £300 (in the present law) has been increased to £500 in respect of the dispensing as to life assurance moneys with probate or letters of administration in certain cases.

Regulation of Sugar-cane Prices.—Provisions in Act No. 27 deal with the constitution of the Central Board and the fixation of a quorum. The measure also provides that without limiting the powers of the Governor in Council or Central Board to grant, change or cancel any assignment, in all cases where the owner of the assigned land is also the cane grower, the assignment in question shall remain until such time as the owner sells or leases his assigned land, whereupon such assignment shall lapse or be rescinded unless the Central Board has approved in writing of the terms of such sale or lease as the case may be. Any such approval of the Central Board shall not be refused by it unless the Central Board is satisfied that the price and/or terms and/or conditions of sale or lease are unfair and unreasonable and/or that the person to whom the sale or lease is desired is not a fit and proper person to hold an assignment. Where the assigned

land is being cultivated but the cane grower is not the owner, the assignment shall be for the duration of the lease or other title to the land of the cane grower in existence, but shall, within twelve months of the termination of such lease or title, lapse unless the Central Board otherwise approves. It is also provided that nothing shall prejudice or affect the provisions of any contract of sale, mortgage or lease of land existing at the passing of this Act.

Pig Industry.—Act No. 6 regulates the pig industry, the provisions of which deal with the eradication of disease, the requirements of cleanliness in piggeries and the supplying to pigs of clean water and wholesome food. Wide powers are given to inspectors to administer the Act. Certain provisions deal with the marking of pigs for identification and the grading of carcases.

Dairy Products Stabilization.—The object of Act No. 14 is to ensure stabilization of dairy produce, and the measure is complementary with Federal and other State legislation. A Dairy Products Board is constituted with wide powers, including determination of a " quota " which is defined as being the proportion of dairy products manufactured by a manufacturer within the State that such manufacturer is permitted for the time being to sell in the course of his intrastate trade in the State.

The Board may enter into contracts or arrangements with boards constituted under legislation in other States. The Board may require persons to make returns as to dairy products, and wide power is given to the Governor in Council to make regulations.

Tobacco Industry Protection.—Act No. 30 is passed in the interests of the tobacco industry. Growers of tobacco plants must be registered. Wide powers (similar in principle with those contained in the Diseases in Plants Acts) deal with eradication of pests and diseases and the matter of quarantine.

The Minister may enter into agreements with growers for the planting and cultivating from test plots of different varieties of tobacco for the purpose of enabling investigations to be made with respect to the most suitable varieties and the promotion of the tobacco industry generally.

Veterinary Medicines.—Act No. 33 will ensure proper testing, inspection and control of veterinary medicines. A Veterinary Medicines Board is constituted with wide powers of examination of veterinary medicines. Persons selling veterinary medicines must be licensed, and the medicine itself requires registration.

Usual administrative and police powers are given to inspectors as to entry, sampling and the demand for any necessary information. Any person selling an unregistered veterinary medicine is liable to a penalty. Unlicensed dealers are also liable to prosecution.

Traffic.—Wider powers are given by Act No. 10 to the Governor in Council to constitute traffic areas. Provisions deal with the " hit and run " motorist. If owing to the presence of a motor vehicle on a road an accident occurs whereby damage or injury is caused to any person, vehicle or animal or property the driver is required to stop, give his name and address and render reasonable assistance to an injured person. Failure to comply renders the offender liable to a penalty. Where the injury, however, is caused to any person under the above circumstances and the driver of the motor vehicle knowingly acts in contravention of the section, the driver is guilty of an offence and liable to a penalty of £100 or to imprisonment for six months or to both fine and imprisonment. The court

may also cancel the licence of an offender found guilty of a breach of this section, and such person shall not again be entitled to drive or operate any motor vehicle until twelve months from the date of sentence has elapsed.

Power is also given to the Governor in Council to hold inquiries into motor accidents.

Moneylenders.—This measure (No. 5) definitely brings under its scope a hire-purchase agreement. Wider powers are given to the court to deal with by way of review of harsh and unconscionable bargains. Power is given by regulation to prescribe the maximum rate of interest in respect of loans made after the passing of this Act. Restrictions are also imposed in respect of charging by a moneylender fees in procuring, negotiating or obtaining loans under certain conditions. Wide power of inspection of books is given to the Registrar, and the fees for registration are subject to review from time to time.

Trade Coupons.—Act No. 8 amends the law in respect of trade coupons. It is in the nature of a tightening-up provision, namely, in the widening of the definition of what constitutes a trade coupon, and giving wider administrative and police powers. Issuing or advertising a trade coupon is prohibited. Cash discounts are, however, preserved. Facilitation of proof in respect of evidence is prescribed.

Hire-purchase Agreements.—Act No. 9 amends the law relating to hire-purchase agreements. The definition is widely extended, the definition prescribed in the Financial Emergency Relief Extension Act of 1932 being adopted. The Act is to be read as granting a right in equity to the hirer in or in respect of the goods and chattels or the value thereof comprised in the hire-purchase agreement based on the payments and/or instalments made by the hirer and a right of relief.

The owner is required to obey definite provisions before he retakes possession and resells the chattel on default of the hirer. A time is allowed to the hirer to remedy his default. If he does not so remedy his default (*e.g.* in payment of his arrears of instalments) the owner may retake and resell or rehire, but is required to give the hirer an account sales, which is subject to review of the court. The Act provides for application of proceeds of the sale or rehiring and gives effect to the equity of the hirer. When a hirer has paid over 50 per cent. of the cost of the articles hired he is allowed to retain certain of the articles as his own property, subject to agreement between the parties or as the court determines. Contracting out is prohibited. Power is given to the Governor in Council to make regulations and rules of court principally in relation to matters of practice and court procedure.

Contracts of Sale of Land.—This Act (No. 26) is somewhat similar in principle to the last-mentioned measure, in that the principles contained in the Hire-purchase Agreement Act relating to chattels are extended in this Act in relation to land. The measure hence has two objects—the protection of a purchaser under an agreement or contract of sale, and provision for conferring equitable rights on a purchaser of land under a contract of sale.

When a purchaser has paid off one-third of the purchase money, he may demand of the vendor that he execute the necessary real property documents in regard to the transaction and lodge same in the Real Property Office. The equity provisions purport to secure an equity to the purchaser in respect of his purchase. Hence, as in the last measure, an

owner must give necessary notice to a purchaser before exercising his powers in case of default of agreement whereby a purchaser may have opportunity of remedying his default. The measure also provides for the application of the proceeds of sale and gives effect to the equity of the purchaser. The owner is required to notify the purchaser of all existing encumbrances on the land and also all subsequent encumbrances, and to take steps to protect the equitable interests of the purchaser. Wide power is given to the court to make orders under the Act, and there is also the usual rule-making power given to the Governor in Council.

Unemployed Workers' Insurance.—The principal Act provided that no person shall be entitled to receive sustenance allowance whose earnings during the twelve months preceding the date of his application for sustenance exceeded the sum of £220. This amending Act (No. 17) increases that sum to £300. Further relief is allowed to unemployed workers in certain cases.

Railway Superannuation.—Acts providing for railway superannuation were passed in 1930 and 1931 Sessions. Inquiries disclosed that the fund constituted by such Acts was actuarially unsound and that if continued would entail considerable expenditure from the Consolidated Revenue. The Acts were therefore repealed by Act No. 3 subject to certain saving rights. A person receiving a pension prior to the passing of this Act shall be entitled to continue to receive such pension on the same terms and conditions. The rights of widows of pensioners are also preserved. The fund is transferred to the Treasury and paid into a Special Railway Superannuation Adjustment Fund.

A contributor on retirement is entitled to receive his contributions plus interest. He is entitled to utilize same in respect of payment of loans under the State Advances Act and other State instrumentalities, and in respect of life policies under the State Insurance Act. The Governor in Council may repay the contributions either in instalments or lump sum if the finances of the State permit, having regard to the well-being of the community generally.

Coal Production.—The object of Act No. 18 is to provide for the regulation and facilitation of the production, supply and sale of coal. Provisions deal with the promulgation of coal schemes, namely, the central coal scheme and the district coal scheme. A Central Board is constituted, the first Board consisting of the Commissioner of Prices as chairman, two members representative of coal owners and one member representative of government collieries and one member representative of employees in collieries.

A coal scheme must have the sanction of 75 per cent. of eligible votes of coal owners. Central coal schemes and district coal schemes have no effect unless sanctioned by the Governor in Council. A district coal scheme shall receive consideration of the Central Coal Board before submission to the Governor in Council. The Central Coal Board and the District Boards are bodies corporate. Power of levy is given for administrative and other costs. The Central Board has wide powers, including the power of issuing or refusing coal licences. Any coal owner or aggrieved person by any act or omission of a District Board may appeal to the Central Board.

Certain powers are provided in respect of district coal schemes—for example, a determination of the minimum price of coal subject to appeal to the Commissioner of Prices. General powers are prescribed with

regard to holding of inquiries, furnishing of returns and inspection of books. The Governor in Council may make regulations to give effect to the Act.

Constitution Act Amendment Bill.—The object of this Bill is to amend the constitution of Queensland by providing that a Legislative Council (or other similar legislative body) shall not be restored, constituted or established and that the duration of Parliament shall not be extended unless or until a referendum of electors of the State of Queensland approve in either case.

The Parliament of Queensland, by virtue of the Constitution Act Amendment Act of 1922, consists of the Legislative Assembly only. This present Bill enacts that any Bill for the reconstitution of a Legislative Council must after its passage through Parliament be submitted to a referendum of the electors of the whole State and approved by a majority of the electors before its submission for the Royal Assent.

The duration of the Queensland Parliament, by virtue of the Constitution Amendment Act of 1890, was fixed at three years (subject to its being sooner dissolved by the Governor). Any Bill for extending the term of the Queensland Parliament after its passage through Parliament must be likewise submitted to and approved by a majority of the electors of the State before presentation for the Royal Assent.

The Bill was reserved for the signification of His Majesty's pleasure.

Miscellaneous.—Other matters more or less of local concern were :

The Wire and Wire Netting Act, No. 23, enabling advances for the purchase of wire netting to be made by the Government to settlers.

The Local Authority (Grazing Districts Improvement) Transfer of Powers Act, No. 29, transferring the powers of District Improvement Boards (dealing with the destruction of dingoes and marsupials) to prescribed local authorities.

The Irrigation Acts Amendment Act, No. 21, making better provision for the settlement and development of the lands in the Dawson Valley Irrigation Area, and affording relief to certain settlers in the nature of postponement of rent of their selections.

A Gas Amendment Act, No. 20, recasting the provisions as to standards of heating power purity and pressure of gas, the directions to be observed in the testing of gas and directions as to determining the price of gas.

An Electric Light and Power Amendment Act, No. 32, enabling the Minister to grant licences to an owner of a generating plant used by him for the purpose of supplying buildings or premises up to a point not more than 300 yards from the generating plant, in certain areas ; and power to the Governor in Council to hold an inquiry in and review the price of electric light.

A Workers' Compensation (Lead Poisoning Mount Isa) Act No. 34, enacting special provisions relating to compensation to workers for lead poisoning contracted by such workers in the employment of the Mount Isa Mines Limited, Mount Isa.

Relief.—Certain measures in the nature of relief measures passed during the years 1930, 1931 and 1932 have been extended in their operation until December 31, 1934. Such measures are : the Purchasers of Homes Relief Acts, 1930 to 1932 ; the Financial Emergency Act of 1931 and the Financial Emergency Relief Extension Act of 1932 ; the Mortgagors' Relief Acts, 1931 to 1932, and the Lessees' Relief Acts, 1931 to 1932.

3. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A. (Oxon.), LL.B., *Parliamentary Draftsman.*]

The volume of legislation resulting from the activities of the South Australian Parliament during the session of 1933 was relatively small. Thirty-seven Acts were passed, of which no fewer than twenty-five were ordinary annual Acts relative to public finance, taxation, the continuance of temporary laws and minor matters of administration. Of the remainder the following are worthy of special notice.

Constitution.—Under the constitution of South Australia framed in 1855 the term of the House of Assembly was fixed at a maximum of three years. The Constitution (Quinquennial Parliament) Act, No. 2141, alters this rule as regards the present Parliament only, by extending the term of the present House of Assembly to five years. Although the Act makes no express alteration in the law regulating the retirement of members of the Legislative Council, the extension of the life of the House of Assembly will, in practice, lengthen the term of office of Legislative Councillors. The rule is that at every general election of the House of Assembly half the members of the Legislative Council, being those who have held their seats for the longest time, and for not less than six years, must retire. As a result of the extension of the term of the House of Assembly, those Legislative Councillors who would normally retire in 1936 after six years' service will retire in 1938 after eight years.

Public Service.—Act No. 2136 fixes the normal retiring age for officers of the public service at sixty-five, in lieu of seventy, as formerly prescribed. The Act also makes a change affecting the Board which classifies the salaried officers of the public service and fixes their salaries. The Board makes its decisions after a quasi-judicial inquiry at which the officers are represented, but the Government is not. (The salaries fixed are, however, subject to Parliamentary ratification.) The amending Act requires the Board to send a copy of every proposed decision to the Minister holding the portfolio of Chief Secretary. The Chief Secretary may, within twenty-one days after receipt of the proposed decision, submit to the Board any evidence, information or opinion relevant thereto, and may require the Board to report to him in writing on the matter so submitted.

Mortgagors' Relief Extension.—Under the Mortgagors Relief Act of 1931, a person who had borrowed money on mortgage of land was given the right to apply to the court for extension of the time for repayment of the sum borrowed, until any day not later than September 1, 1933. Under the extending Act (No. 2112), orders for extension made under the original Act are declared to be orders postponing the date for repayments for one year longer than the period mentioned in the order ; and at the same time a mortgagor who did not avail himself of his right to apply to the court within the period fixed by the original Act is given the opportunity to do so at any time not later than September 1, 1934.

Farmers' Assistance.—Act No. 2134 is the most ambitious attempt yet made by the State to help farmers to surmount their economic difficulties. It provides for the establishment of a Farmers' Assistance Board consisting of four members. The Board exercises functions of two kinds.

It is empowered to make seasonal advances, out of moneys provided by Parliament, to farmers for the purpose of enabling them to keep their land in production. Every farmer whom the Board assists in this way is protected against his creditors, subjected to the control of the Board in the management of his affairs, whilst the proceeds of his crop are handled by the Board and applied in such manner as the Board deems just in payment of his liabilities. These provisions are similar to those contained in the original Farmers Assistance Act of 1931.

The other function of the Board is to endeavour to bring about a reduction in farmers' debts without the aid of proceedings under the Bankruptcy Act. For this purpose the Board may formulate a scheme on behalf of any farmer providing for all or any of the following matters: (*a*) reduction of unsecured debts due to creditors other than the Crown and of any debts secured or unsecured due to the Crown; (*b*) waiver of the Crown's right of priority; (*c*) postponement of the Crown's first charge on the debtor's land to the rights of the mortgagee; (*d*) waiver by the Crown of its security; (*e*) reduction of the rate of interest on secured debts to the current rate and a release of the debtor from arrears computed at a rate in excess of the current rate; (*f*) reduction or writing off of arrears of interest on any unsecured debt. There is no power to deal with fully secured debts other than Crown debts.

Every scheme must be submitted to the vote of creditors, and unless one-half in value of the farmer's unsecured creditors vote against it, it comes into operation. It was anticipated that the prospect of securing the debtor's release from a substantial part of his debts due to the Crown so that he could pay more to his other creditors, and of a waiver by the Crown of its right to priority, would induce the other creditors to submit to a reduction in their claims. It remains, however, to be seen how effective these provisions will be.

Betting.—Act No. 2135 legalizes betting with bookmakers on race-courses and on registered betting premises. The previous law on this subject rendered the occupation of a bookmaker illegal under almost all circumstances. He was forbidden under pain of fine or imprisonment to bet in the streets, on race-courses or in other public places, or in hotels or clubs; whilst if he carried on his business at his house he ran the risk of having it declared a common gaming house.

Act No. 2135 has made substantial changes. A Betting Control Board representing the Government and the racing clubs is established with power to license bookmakers and register betting shops. A licensed bookmaker can legally carry on business as such on any race-course or trotting course with the consent of the club controlling that course, or in any registered premises. He must, however, pay a licence fee of one pound to the Board, a licence fee to the racing or trotting club of an amount fixed by the club, a stamp duty on a ticket issued in respect of every bet, and a turnover tax, payable weekly, at the rate of 2½ per cent. on the gross amount of his receipts.

Building Societies.—Act No. 2122 was passed consequentially upon the discovery of some extensive frauds in connexion with a large building society. It transfers the administration of the Building Societies Act, 1881, from the Registrar-General of Deeds to the Registrar of Companies. It provides that one auditor at least of a society must be a qualified person; that adequate notice of general meetings must be given to all members of the society; and that on the application of 1 per cent. of

the members of the society (but in no case less than five members) the Public Actuary may order an investigation into any of its affairs or transactions.

The Act also provides against a difficulty which arose under s. 37 of the principal Act. That section provided that disputes between the society and its members were to be settled in the manner provided by the rules of the society and that the decision could not be appealed against or removed into any court of law. On the true construction of this section it was probable that a society could not sue a member under a covenant in a mortgage for payment of money, nor apply to a court for foreclosure. The amending Act, however, preserves to the society its full rights and remedies in the ordinary courts of law under any mortgage or other contract.

Bush Fires.—Act No. 2139 consolidates and amends the law relating to bush fires. Bush fires are frequent in South Australia, and in order to prevent their occurrence stringent rules are laid down as to the lighting of fires during the dry summer months. Stubble fires must during this period not be lighted unless the prescribed safeguards are complied with, such as the provision of firebreaks and notices to neighbouring landholders, whilst the lighting of scrub fires between October and February is absolutely prohibited. Several other safeguards are provided to prevent the spread of fires.

4. TASMANIA.

Acts passed—57.

The larger part of the legislation of the session consists of financial measures and minor amendments of the existing law, which include the following of general interest :

Motor Vehicles.—By Act No. 19 incapacitated soldiers are exempt from the payment of tax on motor vehicles, but not of more than one or of any motor vehicle used for hire or for the carriage of goods or passengers.

Meat Industry.—No. 29 reorganizes the control of the meat industry in accordance with the recommendations of a Board of Inquiry.

Fruit.—Relief is granted from government funds to growers of apples and pears by No. 32.

Wages.—The Wages Boards Act of 1920 is amended by No. 37, bringing the legislation into line with the decision of the Federal Court which altered the system of the determination of the cost of living.

Cruelty to Animals.—No. 38 amends the principal Act of 1925 by adding to the offences a failure to supply animals in transit with sufficient food and water fit for consumption at least once in twenty-four hours.

Workmen's Compensation.—No. 42 increases the scale of compensation provided in the principal Act of 1927. The minimum in the case of an adult male is fixed at £2 a week, and for anyone at not less than 30*s*., except minors whose average weekly wages are less than that sum. In addition to the compensation, the employer must pay all reasonable hospital expenses, medical charges and charges for medicines and appliances not exceeding in all the sum of £25.

Another Compensation Act (No. 47) referring only to miners amends the Workers (Occupational Diseases) Relief Fund Act, 1928, by providing compensation on a percentage basis according to the stage of the disease as determined by a medical officer. This applies only to diseases attributable to employment in mining operations.

Dairy Products.—No. 56 controls the sale of dairy products in accordance with the legislation passed in the Commonwealth and other States with a view to the stabilization of local prices.

5. VICTORIA.

[*Contributed by* His Honour Judge Zichy-Woinarski, K.C., *and* S. H. Zichy-Woinarski, Esq., M.A., LL.B.]

The Acts for the second session of the Thirty-first Parliament of the State of Victoria reach the total of 108. Many of them are quite unimportant except locally, and are therefore not examined.

Financial Emergency (Continuation).—No. 4109 extends until June 30, 1934, the provisions of Part I of the Financial Emergency Act, 1931, as to reduction of salaries and other remuneration by the State, and until July 5, 1934, the provision of Part II of that Act as to reduction of non-contributory pensions. It provides for the transfer on June 30, 1934, to Consolidated Revenue of the surplus of the Licensing Fund. It reduces certain grants to the University of Melbourne, to agricultural colleges and for investigations relating to irrigation and extends for another year the suspension of payments from Consolidated Revenue to municipalities and reduces the amount to be paid for the financial year 1933–34 into the Forestry Fund and of Consolidated Revenue.

Part II extends until July 5, 1934, the provisions of the Pensions Reduction Act, 1932.

Part III provides that in respect of the financial year 1933–34 fees for licences to drive motor-cars shall not be credited to the Country Roads Board and suspends for that year the payment of £50,000 from Consolidated Revenue into that fund. It also continues until December 31, 1934, the increased stamp duty on bills of exchange payable on demand and on receipts for £25 or upwards.

Street Meetings.—No. 4113 confers a certain latitude on the holding of street meetings. The legislation on the subject of street meetings was contained in three provisions. Subsection 14 of s. 5 of the Police Offences Act, 1928 (No. 3749), made it an offence to obstruct "any footpath or road, whether by allowing any cart or animal to remain across such footpath or road, or by placing goods thereon, or otherwise," and though there were judicial *dicta* both ways as to whether that section applied to an assemblage of persons, it had been held that it did. S. 6 of the same Act referred in terms to the assemblage of persons and gave the local authority power to make regulations for preventing the obstruction of streets, etc., whether by assemblage of persons or otherwise. S. 197 of the Local Government Act, 1928 (No. 3720), conferred on municipalities powers of making by-laws, under which the assemblage of persons in streets can be regulated. The present Act clarifies the position by enacting that in prosecutions under the above sections where the obstruction alleged is by assemblage of persons (not being a procession) or by any person or persons forming part of or connected with such assemblage the court shall not convict the defendant unless it is satisfied that, having regard to all the circumstances of the case and to the amount of traffic which actually was at the time on the footpath, street or road, there was undue obstruction thereof. The effect appears to be that henceforth an actual obstruction rather than a technical obstruction must be proved in these prosecutions.

Director of Finance.—No. 4115 denies that that which we call a rose by any other name would smell as sweet, by changing the style or title of the permanent head of the Treasury from Under-Treasurer to Director of Finance. The State already has a Director of Education and a Director of Agriculture, and as appears *infra* has now, too, a Director of Mental Hygiene.

University.—No. 4116 empowers the Council of the University of Melbourne to appoint a vice-chancellor with such powers and duties as are conferred or imposed upon him by statutes or regulations of the University, and contains consequential amendments to the University Act, 1928 (No. 3795). It enacts too that the body politic and corporate of the said University is to be deemed to be the same body politic and corporate notwithstanding this change in the constitution and that no action, matter or thing is to be abated or affected thereby.

Real Estate Agents and Business Agents.—No. 4117 amends Acts Nos. 3762 and 3933 by widening the definition of real estate agent in Act No. 3762 so as to include any person who is employed by any other person or any corporation who or which is not required by the Real Estate Agents Acts to be licensed thereunder, or who is a member of or shareholder in any such corporation (other than the chairman or other principal member of the governing body of such corporation), and who in either case on behalf of such other person or such corporation negotiates for the sale, purchase, exchange, letting or taking on lease of or for any other dealing with or disposition of land of any tenure or buildings or any estate or interest in land of any tenure or buildings. It also limits the time to twelve months during which any executor, administrator or trustee (other than a trustee company) of the estate of a deceased real estate agent or a deceased business agent may exercise or carry on the business of the deceased real estate agent or business agent as such without holding a real estate agent's licence or a business agent's licence as the case may be.

Swine.—No. 4119 amends the definition of disease in the principal Act No. 3784 by adding infectious necrotic enteritis to the diseases of swine (tuberculosis, swine fever, swine erysipelas and swine plague) in respect of which compensation is payable under the Swine Acts ; and it also provides for compensation to owners of certain pigs destroyed because of infectious necrotic enteritis before the commencement of this Act.

Bees.—No. 4125 requires every person by or on behalf of whom more than two hives of bees are kept to be registered and to renew such registration annually. The manner and particulars of registration are prescribed and include a statement as to the place or places where any bees are kept. Any person who moves any bee-hive more than ten chains is required to give notice thereof to the prescribed authority. The Act prohibits the exposing in such manner as will allow access thereto by bees of bee-hives, fittings and apparatus infected with disease and of honey which is infected with disease or which has been exposed to infection with disease ; requires owners of places where bees are kept to give notice to the inspector in cases where the bees are diseased or the bee-hives infected with disease ; and authorizes inspectors to prohibit the removal to another place of diseased bees or of bee-hives, fittings and apparatus infected with disease. The Act also makes a number of amendments of a machinery nature to the Bees Act, 1928 (No. 3643).

Centenary Celebrations Council.—No. 4128 provides for the appointment and incorporation of a body to be known as the Centenary Celebra-

tions Council for the purpose of making arrangements for celebrations in connexion with the centenary of the settlement of Victoria and of the founding of Melbourne, and for the establishment of a fund to be called the Centenary Celebrations Fund. Details as to objects, constitution, officers, committees and finance are contained in the measure, provision is made for the dissolution of the Council and its committees, and it is made an offence for any person to cause to be printed, published or exhibited any written or printed matter relating to any function, entertainment or pageant in which matter it is stated or suggested that such function is organized or approved by the Council unless in fact it is so organized or approved in writing.

Medical.—No. 4131 empowers the president or chairman of the Board, on application for registration as legally qualified practitioners, to administer an oath to the applicant or to permit an affirmation or statutory declaration to be made or taken by any applicant. It also extends the grounds upon which the Medical Board of Victoria may erase or remove the name of any medical practitioner from the Medical Register of Victoria under Act No. 3730. Under that Act (s. 7) the Board was authorized to remove from the register the name of any person registered who in Victoria is convicted of a felony or misdemeanour or who in any part of His Majesty's dominions or elsewhere is convicted of an offence which if committed in Victoria would be a felony or misdemeanour ; with the exception of a conviction for a political offence out of His Majesty's dominions. The present Act, in substituting a new section, enables the Board to erase or remove the name of any person registered if it is satisfied that such person, whether before or after he is registered and whether before or after the commencement of the Act (*a*) has in Victoria been convicted of a felony or misdemeanour or has in any part of His Majesty's dominions or elsewhere been convicted of an offence which if committed in Victoria would have been a felony or misdemeanour ; or (*b*) has been guilty of infamous conduct in a professional respect or is an inebriate ; or (*c*) has had his name erased from any register kept elsewhere in His Majesty's dominions or in a foreign country for any reason affecting the conduct of such person in a professional respect ; but the name of a person shall not be erased on account of a conviction for a political offence or on account of any views on politics or religion held or expressed by him. Infamous conduct in a professional respect does not include any conduct which either from its trivial nature or from the surrounding circumstances does not in the public interest disqualify a person from practising his profession. In certain cases the Board is required to give notice to the practitioner affected and to afford him an opportunity of being heard before his name is erased.

Further, the Act provides for the restoration to the register of names of practitioners erased, and authorizes the Board to refuse to register the names of persons, otherwise entitled to be registered, who have been convicted of offences which are under Victorian law felonies or misdemeanours or whose names have been erased from any register kept elsewhere than in Victoria for reasons for which the Board would be authorized to erase such names from the Medical Register of Victoria.

Lastly, the Act requires applicants for registration to lodge at the Board's office notice of intention to make such application together with documents of qualification, makes provision for an appeal to a justice of the Supreme Court by persons who have been refused registration or whose names have been erased from or not restored to the register, and enables

a copy of the register to be published when directed by the Minister and a supplementary list to be published annually, instead of requiring a copy of the register to be published annually as formerly under Act No. 3730.

Libraries.—Where land has been granted by the Crown to trustees as a site for a free library, reading-room, mechanics' institute or trades hall and is no longer required for any of such purposes, the Governor in Council is, by No. 4133, upon petition by the trustees and the committee of management (if any) of such land and the council of the municipality, empowered to authorize the trustees to surrender such land to His Majesty and further to grant such land for public purposes to such municipality. In cases where land is held otherwise than by Crown grant in trust for the same purposes and is no longer required for any of those purposes, the Governor is further empowered to authorize such trustees upon a similar petition to convey or transfer the land to the municipality in the municipal district of which the land is situate. The necessary machinery provisions are inserted.

Unemployment Relief (Administration).—No. 4135 makes provision for certain payments out of the Unemployment Relief Fund (i) in respect of salaries of officers appointed by municipal councils for the purposes of the local administration of the Unemployed Relief (Administration) Act, 1932 (No. 4079), (ii) in respect of work on certain works for the relief of unemployment, and (iii) in respect of certain work performed in return for sustenance.

Country Roads Board Fund.—No. 4140 is a short Act entitled "An Act to relieve municipalities of certain liabilities in respect of permanent works on main roads, State highways and developmental roads." It makes provision for the relief of municipalities from the payment of so much of their liabilities in respect of the above works as the Country Roads Board recommends, but so that the total amount of such relief shall not in the financial year 1933–34 exceed £50,000, in the financial year 1934–35 £100,000, or in any subsequent year £150,000.

Administration and Probate.—No. 4141 deals with the position where the court has granted letters of administration of the estate or probate of the will of a person presumed to be dead who has subsequently turned up alive. Previous to this Act some protection had been given to an administrator or executor in distributing the estate in such circumstances by virtue of s. 27 of the principal Act No. 3632, but the extent of such protection was doubtful and a recent application to the court made the doubt manifest. In New South Wales the situation occurred in 1907 in *Keegan's* case (unreported on this point but of which a *sequela* appears in 1907, 7 N.S.W. S.R. 565, where the facts are mentioned), and several other similar cases have occurred in that State in the last twenty years. New South Wales legislation was brought in in 1932 to meet the position (1932, No. 49), and the present Victorian Act follows its lines and lays the ghost of the anomaly where a man presumed to be dead is not dead for all purposes of administration. It provides that the Superior Court, if satisfied whether by direct evidence or on presumption of death, that any person has died leaving property in Victoria, the court shall have and shall at all times be deemed to have had jurisdiction to grant probate of his will or letters of administration of his estate notwithstanding that it subsequently appears that he was living at the date of the grant. It provides for the revocation of any such grant and contains a number of special provisions relating to grants made on presumption of death.

British Migrants (Agreement).—No. 4143 approves an agreement between the Commonwealth of Australia of the one part and the State of Victoria of the other part relating to a scheme for adjusting the grievances of certain migrants settled upon the land in Victoria in pursuance of an Act of the Parliament of the United Kingdom of Great Britain and Ireland known as the Empire Settlement Act, 1922 (12 & 13 Geo. 5, c. 13). The schedule to the Act sets out the agreement.

Auction Sales.—No. 4144 amends the principal Act and enacts that in case of a penalty being imposed for selling by auction without an auctioneer's licence, the court shall have discretion to disqualify the defendant from holding such a licence for a period not exceeding three years.

Landlord and Tenant.—The Landlord and Tenant Act, 1932, No. 4105, limited the right of a landlord to distrain for rent upon the goods and chattels of a tenant which are subject to a hire purchase agreement or upon stock depasturing on the land of a tenant who has not completed the purchase of such stock. The present Act (No. 4146) is an amending Act making some minor amendments to No. 4105.

Closer Settlement (Financial).—No. 4150 increases to £12,530,000 and £25,355,000 the amounts which may respectively be borrowed for the purposes of closer settlement and soldier settlement.

Children's Welfare.—No. 4152 amends s. 18 of Act No. 3654 by increasing the classes of children deemed to be "neglected children" so as to include a child (i) being in any street or public place for the purpose of inducing the giving of alms, (ii) not being duly licensed engaging in street trading after the child and the parent or guardian of the child have been warned by an authorized person to desist, (iii) living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice or crime, (iv) being under the guardianship of any person who in the opinion of the children's court is unfit by reason of his conduct or habits to be the guardian of the child, (v) (being a female) found soliciting men for prostitution or otherwise behaving in an indecent manner, (vi) (being a female) found habitually wandering about a public place at night without lawful cause after the child and the parent or guardian of the child have been warned by an authorized person.

Further, in amending s. 109 of the principal Act it provides that a person may be liable for neglecting, ill-treating or exposing children notwithstanding that actual bodily suffering or permanent or serious injury to the health of the child or the likelihood of such suffering or injury to health was obviated by the action of another person.

Maintenance.—No. 4154 affects the powers of justices exercisable under Act No. 3722 relating to orders for the maintenance of deserted wives and children and for confinement expenses. It enacts that those powers may, and in certain parts of Victoria in the metropolitan areas shall, be exercised by a court of petty sessions consisting of a police magistrate sitting alone, and that in certain proceedings relative to such orders the decision of the police magistrate shall in the event of a difference of opinion with any justice or justices prevail. It empowers a police magistrate sitting alone to vary or suspend any such order or to revive any order so suspended, and empowers a court of petty sessions where an order has been made regarding the custody or control of a child to make an order regarding the right of access to the child, or to vary or discharge such order. Formerly such powers were exercisable only by the higher courts.

The Act also extends the provisions of the Maintenance Act, 1928 (No.

3722), which related mainly to the reciprocal enforcements of maintenance orders made in the States of the Commonwealth, to orders confirmed under any law reciprocal to the Imperial Act 10 & 11 Geo. 5, c. 33 (Maintenance Orders (Facilities for Enforcement) Act, 1920), by a court in any State or territory or mandated territory of the Commonwealth or in New Zealand; and it enables orders made under those provisions (which hitherto are enforceable by distress) to be enforced by imprisonment without distress. Lastly, the Act enables the Governor in Council to extend the provisions of the principal Act No. 3722 which relate to the reciprocal enforcement of maintenance orders made in Victoria and England, Northern Ireland and other parts of His Majesty's dominions and protectorates, to territories in respect of which a mandate is being exercised by the Commonwealth of Australia.

Mental Hygiene.—No. 4157 renders unnecessary the apology of Chaucer:

> But first, I pray you of youre courteisye
> That ye narette it not my vileynye
> Thogh that I pleynly speke in this mateere
> To telle you hir wordes and hir cheere,

by changing the styles, titles or names "Inspector-General of the Insane," "Lunacy Department," "hospital for the insane," and "licensed house" to "Director of Mental Hygiene," "Department of Mental Hygiene," "mental hospital" and "private mental home" respectively. The object of this change in designation, said the Chief Secretary who had charge of the measure in the House, is that it "may have some effect in bringing about a greater efficiency in the department and enlisting an increased sympathy for those unfortunates who are afflicted by this, the most distressing of all ailments to which flesh is heir." He went on to point out that such a change is in accord with the advances made in medical science and that "the term 'lunatic,' so full of superstition and reproach, is falling into disuse, and instead of lunatic asylums, banished into some out-of-the-way place, psychiatric clinics are coming into being in our cities and in our general hospitals."

The Act authorizes the Director of Mental Hygiene, with the consent of the Governor in Council, to delegate his powers to medical officers in the department. Further, it empowers him to consent to surgical operations upon or medical treatment of lunatic patients in hospitals, but in urgent case the superintendent of the hospital may give such consent. Lastly, it makes provision with respect to private admissions to receiving houses for observation, to trial leave and parole in the case of certain insane prisoners, and to the appointment of a pathologist to certain metropolitan mental hospitals.

Cultivation Advances (Borrowing).—No. 4162 increases by £175,000 the amount which may be borrowed for the purposes of advances to cultivators under the Cultivation Advances Act, 1932.

Unemployment Relief Tax (Assessment).—No. 4171 continues the authorization of such a tax upon income. Certain provisions of the Income-tax Acts are incorporated with some modifications. The Act proceeds on the lines of the Unemployment Relief (Taxation) Act, 1932, No. 4057, and contains nothing of novelty.

Trustee Investments.—No. 4178 authorizes trustees to invest trust funds in any of the parliamentary stocks or public funds or Government

securities of the Commonwealth of Australia whether or not a contrary intention is expressed in the instrument (if any) creating the trust.

Land Act.—No. 4181 amends the Land Acts. It gives power to alter by proclamation the designation of "towns" and "villages" to townships. A town under the Local Government Act is a district in which the annual revenue is not less than £10,000. There had been some laxity in the proclamations under the Acts in describing "towns" and "villages," and to correct that and to eliminate the term village, power is given by proclamation to alter the designation "town" or "village" to "township." As townships in old mining districts decay and in other districts increase, power is also given to diminish or to extend by notice in the *Government Gazette* their respective areas. The Governor in Council is empowered to vary the rent payable under perpetual leases of swamp or reclaimed lands; to grant to certain holders of Crown lands who have effected improvements thereon the right to purchase such land; and to receive interest from those in occupation of Crown lands on rent royalties and licence fees in arrear.

The Minister is authorized to grant certain additional areas to lessees or holders of Murray Settlement lands; to him is also re-transferred certain powers in such lands previously transferred to the State Rivers and Water Supply Commission; and, again, land in special settlement areas which had not been taken up or had been forfeited may be now disposed of under selection purchase lease or otherwise dealt with as if unalienated Crown land.

Lastly, it gives power to the Governor in Council to close unused roads without the concurrence of the adjoining owner in cases where after notice he fails to concur therein or offers reasons which the Minister deems to be frivolous.

Milk Board.—No. 4183 repeals the Milk Board Act, 1932 (No. 4104). Part I of the Act provides for the appointment, constitution and incorporation of a Board to be called the Milk Board and to consist of three members but so that any person who is financially interested in the production, treatment or distribution of milk is disqualified from appointment. Part II deals with the powers and duties of the Board and empowers the Board from time to time after inquiry to determine the minimum prices to be paid to owners of dairy farms for milk for sale or distribution in the metropolis. It requires dairymen who purchase milk for sale or distribution in the metropolis to purchase the same from owners of dairy farms, factories, milk depots or from other dairymen and not otherwise, and requires owners of factories and milk depots who purchase milk from dairy farmers which is forwarded to the metropolis to keep and enter certain particulars in books, and prohibits them from the mixing of milk so forwarded with any other milk received at the factory or depot. All milk purchased from owners of dairy farms for sale or distribution in the metropolis has to be purchased under and in accordance with contracts approved by the Board, and all dairymen in the metropolis, owners of factories and depots from which milk is forwarded to the metropolis, and owners of dairy farms who sell milk for distribution in the metropolis have all to furnish monthly returns to the Board, which is empowered to require the production of any books, etc. Further power is given the Board to investigate and report to the Minister on the collection, transport and distribution of milk, to expend money in encouraging consumption of milk, to reduce the number of dairies from which milk may be sold or

distributed in the metropolis or in certain areas therein, and to assess compensation payable in respect of the cancellation of dairy licences by it. The remainder of the Part requires dairymen in the metropolis to obtain and lodge with the Board fidelity bonds before licences are issued, and empowers the Governor in Council, on the recommendation of the Board, to prescribe by regulation the hours or times within which milk may be delivered by retail in the metropolis.

Part III is concerned with financial provisions. It provides for the establishment of a Milk Board Fund into which contributions shall be payable by dairymen and owners of farms who sell or distribute milk by retail in the metropolis, and out of which shall be payable compensation, contributions towards certain expenditure incurred under the Milk and Dairy Supervision Acts (Nos. 3736 and 3969) in improving the quality of milk consumption in the metropolis, and the costs and expenses incurred in the administration of the present Act. Part IV contains some supplementary provisions.

Bush Fire Brigades.—No. 4185 divides the State of Victoria into six bush fire districts, provides for the appointment and constitution of a Bush Fire Brigades Committee and authorizes that committee to register as a bush fire brigade any association formed or to be formed for the purpose of extinguishing fires within any bush fire district. Provision is made for the election of captains and lieutenants of such brigades, and for the powers of duties of such officers. Immunity is given to such officers and to any person acting under their directions from liability for damage caused by the exercise in good faith of such powers, and damage so caused shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the property so damaged, notwithstanding any clause or condition in any such policy.

Superannuation Act.—No. 4186 is mainly an amendment of the principal Act. Public servants until the year 1881 were entitled to free pensions on retirement; thereafter and until 1925 officers who joined the service were required to insure their lives for there was no pension for them; in 1925 the Superannuation Act established a contributory scheme of superannuation. The basis of the scheme was that the officers contributed one-half of the pension to which they would ultimately become entitled and the other half of the pension was provided from Consolidated Revenue when the officer became a pensioner.

By s. 2 the definition of "salary" is widened to enable the Board to take into account free quarters and other allowances when determining the amount of contributions to be paid. S. 3 deals with certain special cases. S. 4 requires a certificate as to health to be given by an approved medical practitioner in the case of an officer appointed after the commencement of the Act before he can become a contributor to the fund. S. 5 permits an officer to reduce the number of his units of pension. S. 6 substitutes increased rates of contribution. This became necessary owing to reductions in interest on investments of the fund. S. 7 enables an officer who resigns after he has attained the age of 60 years, and before he reaches the age of 65 years, to elect to receive a pension or a refund of the actuarial reserve portion of his contributions, and it also provides for the payment to the legal personal representative of a contributor who, having attained the age of 60 years, has resigned or retired and died without receiving any benefit, of a sum equal to the actuarial reserve portion of his contributions. S. 8 enacts that, except

in cases of retrenchment or discharge, where a contributor would be entitled to the repayment of his contributions, then, notwithstanding the Superannuation Acts, he shall be entitled to receive the actuarial reserve portion of his contributions, *e.g.* adjustments of refunds are to be made on an actuarial basis. S. 9 alters the conditions upon which a contributor, who has retired through ill-health, shall be liable to be recalled to service in the event of restoration of his health. S. 10 allows a contributor who wishes to reduce his units to take out, if he so wishes, an endowment assurance instead of obtaining a refund on an actuarial basis of the contributions and if he does so the Crown will contribute equally with him. S. 11 enables certain contributors to increase the number of units of pension for which they will contribute. S. 12 provides for the payment, on the death of a male contributor who is a widower or who is unmarried or divorced, to his legal personal representative of the actuarial reserve portion of his contributions less the amount necessary to pay any pension payable to the children of the contributor.

Stamps.—No. 4192 amends the definition of " lease " in the principal Act (No. 3775) which " includes any agreement for a lease but does not include any clause in a deed or mortgage providing for attornment by a mortgagor " by adding the words " and does not include any clause in any contract of sale providing for attornment by the purchaser under such contract of sale." Also the Act retrospectively exempts from stamp duty on conveyances or transfers on sale of real property certain conveyances and transfers to purchasers under the State Savings Bank Act, 1928 (No. 3777), and the Commonwealth War Service Homes Act, 1918–32.

Cultivation Advances.—No. 4195 continues the policy of assisting certain farmers numbering about 950 by loans or advances to cultivate or continue working or residing on their farms and so to retain them on the land and prevent them drifting to the cities to join the unemployed. At first such advances were confined to growers of wheat, oats or barley, but amending and continuing Acts covered also, as does this Act, the growers of potatoes, onions or maize. It is on similar lines to the previous Acts, but its scope has been widened by including farmers other than sufferers from drought or climatic conditions, and it is now administered by the Closer Settlement Commission. If the Commission is satisfied that through the existence or consequences of adverse conditions or by reason of indebtedness a cultivator is unable to fallow or crop his farm or to continue working or residing on it, it may grant a cultivation advance by way of loan and bearing interest at a rate determined by the Treasurer—(*a*) of such quantity of seed or fodder or manure or power-fuel, or lubricants or cornsacks or twine or fencing material or duplicates for parts of farm implements ; (*b*) for wages for assistance in cropping or harvesting ; (*c*) for the purchase of horses for replacement not exceeding the sum of £75 ; (*d*) to purchase farm implements ; (*e*) a sum of money sufficient for the ensuing twelve months as a living allowance for the cultivator and his family who reside on the farm—and in all such cases the Commission is to be satisfied that the cultivator has a reasonable prospect of success and is working his farm efficiently (s. 3).

A lien on crop of the harvest or succeeding harvests and such other securities as the Commission requires is to be given as security for the

advance, and in the case of share farmers the consent of the owner or occupier and if necessary of the mortgagee is required before the advance can be made (ss. 4 and 5). In s. 6 if the proceeds of the crop of the harvest for the year of the advance is not sufficient to cover the lien the Commission is empowered to require a lien on the next crop or the two succeeding crops. Notice of approval by the Commission of an advance to any cultivator is to be sent within twenty-eight days to each mortgagee or encumbrancer of the land or to the lessor or unpaid vendor thereof (s. 7), and the consent of the mortgagee lessor or unpaid vendor of the cultivator's land or of the other party to a share-farming agreement is required before the lien on crops is given (s. 8). The Commission is enabled to require cultivators whose advances under previous Acts are unpaid to give liens on successive crops (*ib.*); provision is made that the property in things advanced or purchased or subject to securities are to become and remain the property of the Commission until the advance under this or other previous Acts (with interest) are paid (s. 11), and such things are protected from distress and execution (*ib.*). The Commission can recoup itself for any necessary expense of harvesting the crop and the cultivator is made personally liable for the amount of the advance in addition to the security taken.

Instead of monthly payments for living allowances for twelve months being made, a sum or sums may be paid to an account at the bank in the name of the cultivator, either by way of advance or from harvest proceeds, and such amount may be drawn upon by the cultivator, subject to agreement to be entered into between the Commission and the bank (s. 14); and the moneys paid into such accounts are not liable to be attached or taken in execution at the instance of any person other than the Commission (*ib.*).

Repayments to Commission of advances under this or previous Acts are to be credited first to reduction of liability in respect of interest and payments out of the Consolidated Revenue into the State Loans Repayment Fund are to be made to provide for capital losses (s. 15).

Closer Settlement.—No. 4196 amends the existing Act. It will be remembered that a Commission had been appointed to avoid ministerial and political interference in reference to the State undertaking of closer settlement and soldier settlement. The policy was to give a conditional purchase leasehold based upon a heavy capitalization and the repayment of principal and interest by instalments. It has proved a very expensive policy for the taxpayers, and the last Act had established an independent Commission; made provision to consolidate settlers' debts for a period of five years during which a reduced payment should be made, and adopted scales for the payment of capital and interest. The Commission was to investigate the sums which the settler should pay and in regard to the writing off, and a five years' period for the final settlement was then provided. Further amendments have become necessary and some alterations to be made. The Act is divided into two parts. The preferable liens given by settlers for five years under the last Act were not found to fit in as regards the term with the new readjustment for the five years, and the present Act therefore provides the said liens shall be deemed to have been given on the crop of every successive harvest sown before July 1, 1937 (s. 3).

Power is given to the Commission in the case of certain purchasers of Crown land previously sold by auction to postpone or adjust any instal-

ment of the purchase money or interest (*i.e.* to extend consideration and to compromise, just as ordinary vendors of property may do to their purchaser) if the Commission is satisfied that the purchaser has worked and is working the land in an efficient manner and is unable, owing to adverse circumstances, to fulfil the terms of the sale (s. 5).

The last Act had provided for the consolidation of settlers' debts as at July 1, 1932. The leases had varying dates, and to introduce uniformity this Act alters the half-yearly dates upon which payments are to be made by settlers in respect of these consolidated debts (s. 6). The Commission may decide in any case on its merits what part of the settlers' cultivation advance shall be written off (s. 7). S. 9 extends the benefit of the last Act to certain settlers who had been placed on closer settlement blocks and who were known as "approved applicants" (*i.e.* who were not lessees within the meaning of that Act but whose leases were withheld for various periods up to five years pending fulfilment of certain conditions in reference to improvements of their blocks), and s. 11 does the same for unregistered transferees who were purchasers under contracts of sale or transfers of leases upon the registration of the transfer. S. 10 provides that in the event of the death of a lessee who was eligible for the adjustment of his liabilities under the last Act, and where the lease has been transferred to his widow or child, such widow or child shall be eligible to receive the benefits of that Act as if a lessee at its commencement. By s. 11 a lessee who is unable owing to sickness to work his land satisfactorily or to meet his liabilities, or the widow of any lessee upon whom the interest in the lease has devolved and who is unable to work the land satisfactorily or to meet her liabilities, may at a date earlier than June 30, 1937, have the benefits of the last Act. By s. 12 the Commission is authorized to make payments in respect of improvements effected on Crown lands by deceased settlers to the widows and children of such settlers.

Part II deals with the application of the Closer Settlement Fire Insurance Fund for payment of interest by lessees, etc., during the period between the destruction of or damage to buildings or fences and reinstatement thereof.

State Electricity Commission.—No. 4197, the State Electricity Commission (Trading) Act, prohibits the State Electricity Commission of Victoria from carrying on the business, either as principal or agent, of trading in electrical apparatus or from carrying out or entering into agreements for the carrying out of any electrical wiring installation in or on any premises other than premises owned or occupied by the Commission. Electrical apparatus is defined to mean any appliances, fittings, lamps or other apparatus designed for operation by electricity and includes any articles or fittings of any kind for use on or as part of any such apparatus. It is enacted, however, that until Parliament otherwise provides, these prohibitions shall not extend or apply beyond the boundaries of any city, and that the Commission shall not be prevented from selling or disposing of any electrical apparatus already purchased ; or in order to encourage and promote the use of electricity from establishing, retaining or using any showrooms or depots for purposes of exhibition and demonstration, or from purchasing electrical apparatus for the purpose only of exhibition and demonstration, or from exhibiting and demonstrating with any electrical apparatus of any manufacturer or trader on a just and equitable basis as between individual manufacturers

and traders, or from repairing or reconditioning any electrical apparatus sold by the Commission, or from carrying out at the request of the owner or occupier of any premises electrical repairs and installations in cases where no adequate facilities are available locally. Moneys received and expended annually under this Act are to be shown separately in the accounts of the Commission, and the Governor in Council is empowered to make necessary and consequential regulations.

Dairy Products.—No. 4204 provides for the appointment and constitution of a Board to be called the Victorian Dairy Products Board and empowers the Minister after consultation with the Board from time to time to determine the proportion of dairy products manufactured by manufacturers in Victoria which they are permitted to sell in the course of their intra-State trade or commerce in Victoria, and a manufacturer is prohibited from selling products in excess of that quota. " Dairy products " is defined to mean butter and cheese. Manufacturers of dairy products are required to contribute to the cost of administering the Act, and they, as well as tinners, processors of and agents and dealers in dairy products, are required to be registered unless exempted by the Board. Certain penal provisions and machinery sections as to the powers, duties and conduct of the Board complete the Act.

Farm Produce Agents.—No. 4208 amends the principal Act, No. 3678. Legislation passed in 1920 to protect primary producers, particularly fruit and vegetable growers, from dishonest practices of farm produce agents was consolidated in 1928. Since that date various loopholes in the measures have been discovered, and the present Act aims at closing them. The definition of farm produce agent in the principal Act, " any person who as an agent for others, whether on commission or for or in expectation of any fee, gain or reward whether alone or in connexion with any other business, exercises or carries on the business or advertises or notifies that he exercises or carries on the business of selling farm produce or of a broker or factor of farm produce," is extended to include " any person who, whether alone or in connexion with any other business, exercises or carries on the business or advertises or notifies that he exercises or carries on the business of purchasing farm produce (other than wheat) for resale by wholesale." Applications for farm produce agents' licences and for renewals thereof are required to be made to the Director of Agriculture instead of to a court of petty sessions, and the Director of Agriculture is required to keep a register of such licensed agents. Every such agent is required to lodge with the Director a fidelity bond containing a provision indemnifying vendors of farm produce against losses arising from any failure to pay or to account for any moneys payable to them by the agent or alternatively to lodge Commonwealth Treasury bonds. Some minor amendments and some penal provisions complete the Act.

Gas Regulation.—No. 4142 is an important Act, amending the law in respect to the supply of gas in the State. Previously, the law on this subject so far as it is affected by this Act was contained in four private Acts, three dealing with the large provincial cities—the Ballarat Gas Company's Act, 1857, the Geelong Gas Company's Act, 1858, the Bendigo Gas Company's Act, 1860—and one with the metropolis of Melbourne—the Metropolitan Gas Company's Act, 1878. As the various dates show, these Acts were considered obsolete and unfitted to meet present-day conditions. Since 1923 the subject has received parliamentary attention, a select committee to inquire and report was set up, and several Bills

have been introduced into the House which for various reasons did not become law. In the intense competition in modern times between gas and electricity for lighting, motive power and, particularly, heat, lies the motivation of the present Act. Its essence is the prescription of new standards for gas in respect of its heating quality, its purity and its pressure so as to ensure for the public proper standards in all those matters.

The Act applies to all undertakers, specified by the Governor in Council, selling more than 25,000,000 cubic feet of gas annually, and undertaker is defined to mean " any corporation, company, firm or person making or supplying gas for lighting, heating, motive power or other purposes and disposing of the same for profit, and also any municipality . . . in so far as it makes supplies and disposes of gas for any purpose other than the lighting of streets, places or building. . . ." As to the heat, the standard of the calorific value of gas required of these undertakers is not less than 500 British thermal units (as against 550 such units at present supplied under the Metropolitan Gas Company's Act), and British thermal unit means the quantity of heat required to raise one pound of water one degree Fahrenheit. Calorific value is given a technical definition in the interpretation clauses. As to the purity, the gas supplied is not to exhibit any trace of sulphuretted hydrogen ; as to pressure, the minimum pressure permissible is to be such in any main or in any pipe laid between the main and the meter having an internal diameter of two inches and upwards as to balance a column of water not less than an inch and a half in height. The maintenance of this standard of gas is obtained, besides by certain penal provisions, by provision for the appointment of a gas examiner and assistants whose powers and duties are prescribed together with the tests to be applied to ascertain the standard of gas supplied (second schedule).

Various powers and duties are conferred both on the undertakers within the Act and on consumers ; various provisions are enacted for the issuing, testing and removal of meters ; and various offences against the Act are set up. More important are certain emergency powers conferred on the Governor in Council by which he is enabled, after publication of a proclamation, by regulations to regulate or prohibit the sale, supply, use or consumption of gas whether generally or for any purpose or purposes specified in the regulations. Such a proclamation may be issued whenever it appears that from any cause the available supply of gas is or is likely to become less than is sufficient for the reasonable requirements of the community. Some machinery and consequential provisions complete the substance of the Act.

Transport Regulation.—No. 4198 is an elaborate and important Act dealing with the vexed question of the regulation of motor transport. Its principal purpose is to eliminate wasteful and harmful competition between various forms of transport in the country. Nominally the Act came into force on January 1, 1934, but actually its full effect will not be felt till 1935, as the country motor services for freight and passengers, in existence at the time the Bill was before the House (August 1933), are permitted to continue under a " transitory " licence till December 31, 1934.

The Act is in two parts. Part I contains amendments of the Transport Regulation Act, 1932 (No. 4100), which provided for the appointment of a Transport Regulation Board to make reports on the co-ordination of transport in Victoria. In the main it alters the constitution of the Board,

which is now to consist of a chairman appointed directly by the Governor in Council, a primary producer and a person engaged in commercial pursuits in the area in which the Board has control.

Part II contains three divisions dealing respectively with commercial passenger vehicles, commercial goods vehicles, and general matters. Private motor-cars are not affected, but all commercial passenger and goods vehicles come within the scope of the Act except those passenger vehicles which operate only within the metropolitan area and certain urban areas within a radius of twenty-five miles of certain post-offices. As to commercial passenger vehicles—motor vehicles carrying passengers for hire at separate and distinct fares are prohibited from operating on any public highway unless licensed under the Act. The Board may on application grant a licence, and provision is made for the mode and procedure of application, the duration of and the conditions that may be attached to such licence. Before granting a licence the Board is to have regard " primarily to the interests of the public generally, including those of persons requiring as well as those of persons providing facilities for the transport of passengers," and certain definite matters so to be taken into account are set out, *e.g.* the advantages of the service proposed, the saving of time effected thereby, the convenience afforded to the public, the existing transportation service, the condition of the roads, the character and qualifications of the applicant. Owners of vehicles so licensed are required to insure against liabilities in respect of injuries to passengers.

As to commercial goods vehicles—motor vehicles used for carrying goods for hire or reward or in the course of trade are required to be licensed. The Board is required to grant licences as of right to certain of such vehicles enumerated in the Act, *e.g.* vehicles operating within the metropolitan area and certain urban areas, vehicles used by a primary producer for the purposes of his business and vehicles used in connexion with the carriage in certain circumstances of butter, milk and cheese. To other commercial goods vehicles the Board may on application grant a licence. Similar provisions in regard to the issuing, duration and renewal, etc., of such licences and in regard to the matters to be taken into consideration by the Board obtain in respect to goods vehicles as to passenger vehicles.

The general division of the part contains a number of miscellaneous provisions. Noteworthy is the limited power conferred on the Board of regulating railway transport. If after inquiry it finds that the best interests of a district or of the State may be served by closing any railway line or by reopening a line which has been closed, it may make a recommendation to that effect. On receiving such a recommendation the responsible Minister may move in Parliament that the recommendation be adopted. If both Houses agree to the motion the Governor in Council may execute an order to close or reopen the line. Further, the railways operate road services only on the recommendation of the Board, and with the approval of the Governor in Council. Lastly, if the Board, having refused to license road vehicles for any route or area, considers that the standard of service provided by the railways or other services is below the standard which should be provided, it may call for applications and grant licences for additional road services. There the Board's power to regulate railway services ends.

The remaining provisions of the Act require the payment of certain

fees for licences but so that such fees shall be so determined that the total amount thereof does not exceed the cost of the administration of the Transport Regulation Acts; authorize the Board to delegate to councils of municipalities powers of an administrative or machinery nature; and provide for an appeal to a justice of the Supreme Court against a decision of the Board granting or refusing to grant a licence, etc. Further, the Act prohibits with certain exceptions the carriage of goods on motor vehicles on Sundays and the use for the carriage of passengers of motor vehicles constructed or ordinarily used for the carriage of goods unless such vehicles are specially licensed for the purpose, and limits the time for which drivers of motor passenger or goods vehicles may remain continuously on duty. Certain machinery, penal and transitory provisions complete the Act.

Fruit Growers' Relief.—No. 4199 gives assistance to the necessitous fruit growers in this State by carrying out the purposes of the Commonwealth Fruit Growers' Relief Act, 1933, which allocated £36,321 to Victoria for the benefit and assistance of necessitous fruit growers who made losses on the export of apples and pears grown in the 1932–33 season. It establishes the fund in the Treasury and appoints a committee of three as the State authority to make the distribution and provides the necessary machinery to enable such fruit growers only to participate in the fund.

Wheat Growers' Relief.—No. 4200 provides for the distribution among Victorian wheat growers of £603,586, allocated to the State of Victoria under the Commonwealth Wheat Relief Act, 1933. The Act last named provided that such money was to be applied for the assistance of individual wheat growers and that it was not to be distributed directly or indirectly upon the basis of the quantity of wheat produced by individual wheat growers, and it further provided that a wheat grower shall not be entitled to receive assistance unless (*a*) he derived no taxable income during the year ended June 30, 1933, or (*b*) having received such income he produces evidence satisfactory to the State authority that there are circumstances by reason of which it is just that he should receive such assistance.

A similar Act last year had enabled 18,000 growers to participate in last year's distribution, and they had received payment at the rate of approximately 2*s.* 8*d.* per acre on 3,231,000 acres sown to wheat and the average amount received then by each wheat grower was about £25.

This Act is on similar lines to the previous State Act, and it therefore establishes in the Treasury an account The Wheatgrowers' Relief (Commonwealth Payment, 1933) Fund, and it provides for the payment into that fund of the said amount. It defines the wheat growers who are entitled to receive assistance and provides for the distribution among those eligible of the moneys in the fund in the ratio which the acreage of wheat crop (except the acreage cut for hay) sown by each such wheat grower in the year 1933 bears to the whole of the wheat crops (except the acreage cut for hay) sown in Victoria by all such wheat growers.

Farmers' Relief.—No. 4201 amends Part II of the Unemployed Occupiers and Farmers Relief Act, 1931, as amended by the Farmers Relief Act, 1932. Bee farmers and poultry farmers are now to be included in its provisions (s. 2). By s. 3 applications for protection certificates are now to be issuable by the Farmers Relief Board and not by the court. S. 4 restricts the right of a farmer to apply for a certificate after refusal of a previous application or after cancellation

(until at least four months thereafter) or after notice by a creditor of his intention to exercise his remedies. It alters the term of the operation of protection certificates to three years and provides for the automatic continuance thereof in certain cases until March 1, 1937. It requires the consent of the Board before the withdrawal of an application for a certificate. It alters priorities of payment out of income of farmers in certain cases. It enables farmers to apply to the Board for a reduction of debts and to submit proposals with respect thereto, and enables creditors of farmers to make application to the Board for the formulation of schemes for the reduction of the farmers' debts and authorizes the Board to submit the proposals of the farmer to creditors or to formulate a scheme itself, and, after certain meetings of creditors have been held, to make an order that the scheme shall come into operation unless any creditor or creditors for debts amounting to £50 objects to the scheme (s. 20). It contains also a number of minor modifications of the Farmers Relief Acts.

6. WESTERN AUSTRALIA.

[*Contributed by* W. F. Sayer, Esq., K.C., *late Solicitor-General.*]

Although forty-seven Acts were passed in the year 1933, during the first and second sessions of Fifteenth Parliament, there are only a few which contain enactments of general interest. These are reviewed below.

Metropolitan Whole Milk.—By an amending Act, No. 28, the word "milk" is defined as the natural lacteal fluid product of an animal, intended for human consumption as milk, notwithstanding that such product has been chilled, pasteurized or concentrated, but shall not include such product when converted into condensed milk; the term includes fresh cream, and cream which has been scalded or pasteurized, but does not include cream used in the manufacture of butter.

In addition to the contributions to the compensation fund referred to in the review [1] of the principal Act, licensed dairymen and milk vendors are required to contribute towards the expenditure of the Board in carrying out their duties and functions, an amount not exceeding in any year one penny halfpenny for every five shillings of the gross proceeds derived from the carrying on of business in exercise of the licence. But if any milk vendor, who sells by retail, when making application for a licence proves to the satisfaction of the Board that he has been selling milk for the preceding year, and that the quantity of milk sold by him in that year was less than one thousand gallons, such milk vendor is required to pay to the Board, on the issue of the licence, the sum of one pound, inclusive of the licence fee payable, and the difference between the amount so paid and the amount of the licence fee shall be a complete satisfaction by the licensee of his obligations to contribute to the compensation fund and to the expenditure of the Board for the year in respect whereof the licence is issued to him.

Police Offences.—It is enacted by Act No. 19 that any person who, under a scheme for the relief of the unemployed, obtains or attempts to obtain any benefit in money or money's worth by wilfully making any false representation as to money in his possession or receivable by him, or as to any property owned by him, or as to any employment in which he

[1] *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 100.

is engaged, or sustenance relief received by him, or as to the number of persons dependent on his earnings or their financial position, commits an offence for which on conviction he is liable to fine or imprisonment under the Police Act, 1892.

Land.—Act No. 37 repealed thirty-three Acts relating to the alienation of Crown lands, and re-enacted the statutory law on the subject as then in force.

The Act defines the land divisions of the State; and provides for Reserves for the use of aborigines, the requirements of the Government, State forests, roads, railways, stock routes, drainage and irrigation works, and for other purposes of public health, safety, utility or enjoyment. Town and suburban lands are disposed of by grants in fee simple or on lease, special provision being made for grants for the purposes of the Workers' Homes Act, 1911, and the Housing Trust Act, 1930.[1] Agricultural lands are disposed of on terms of conditional purchase. A lease is granted to the selector for twenty-five years at an annual rent sufficient to pay the price of the land during the term. The area of the holding must not exceed 1,000 acres of cultivable land and 2,500 acres of grazing land, or 5,000 acres of grazing land. The price is not less than one shilling per acre or more than fifteen shillings per acre, except in special cases; consideration being given in fixing the price to the quality and productiveness of the land and its distance from a railway. Such price is payable by half-yearly instalments as rent during the term of the lease. The lease is granted subject to the performance by the lessee of prescribed conditions of fencing and improvements. At the expiration of the term, or sooner if the fencing and improvements are completed and the balance of the purchase money is paid, the selector receives from the Crown a grant of the land in fee simple.

Provision is made by the Act for the acquisition of small areas of land not exceeding 50 acres for vineyards, orchards and gardens on terms of conditional purchase, the period of the licence being three years, and the Crown grant in fee simple is subject to payment of the purchase money, and performance of the conditions of fencing, planting and other improvements. Free homestead farms of 160 acres of cultivable land are granted in fee simple to approved applicants on conditions as to residence and improvements. Provision is also made for the disposal of land within special settlement areas to special classes of settlers, and under schemes of group settlement.

Pastoral leases, of areas extending from 3,000 acres in the South Western Division to 20,000 acres in the North-West and Eastern Divisions, and 50,000 acres in the Kimberley Division, are granted subject to prescribed stocking conditions and payment of an annual rent of from three shillings per 1,000 acres to five shillings, ten shillings and twenty shillings per 1,000 acres, according to the Division in which the pastoral land is situated. The rent, however, is subject to periodical review by a Board of Appraisers. Pastoral leases are granted for a term expiring on December 31, 1982; but the lessee has no right to the soil or timber, except so far as timber is required for fencing, buildings or stock yards; and the lessee is required to surrender such portions of the land leased as may be needed for roads or other public works, or may be required for agricultural or horticultural settlement or mining, or any other purpose

[1] See *Journ. Comp. Leg.*, New Series, vol. xxx, p. 151, and Third Series, vol. xiv, pt. ii, p. 103.

in the public interest, subject to the payment to the pastoral lessee of compensation for improvements effected by him.

Timber lands of the State are dealt with under and subject to the Forests Act, 1918,[1] and a Conservator of Forests is appointed. Mining areas for gold, copper and other minerals are subject to the Mining Act, 1904, and its amendments as consolidated in 1926. Provision is made for special leases and licences for obtaining guano and other manure, for sites for factories and warehouses, mineral springs and artesian wells, the collection and manufacture of salt, for taking, diverting, conserving and using water for mining, agricultural and other industrial purposes, for fishing stations and preserving fish, and for any other purposes approved by the Governor ; and also for the granting of licences for quarrying.

In a special part of the Act the legislation relating to the acquisition by the Crown, by purchase, of alienated land for closer settlement on conditional purchase conditions is re-enacted.

Power is conferred on the Governor-in-Council to prescribe regulations for effectually carrying out the objects and purposes of the Act. A schedule contains the prescribed forms of conditional purchase agreements ; of Crown grants of town, suburban and rural lands ; of pastoral and other leases ; and of transfers, mortgages, etc.

State Transport Co-ordination.—By Act No. 42 a State Transport Board is constituted to make investigations and inquiries into transport matters ; to give consideration to the question of transport generally in the light of service to the community, the needs of the State for economic development, the industrial conditions under which all forms of transport are conducted and the impartial treatment of conflicting interests. The Board shall on direction of the Minister, or may of its own volition, inquire and report whether the services of any existing railway or tramway are adequate for the requirements of the district ; or if, in the opinion of the Board, the services of any railway or tramway are inadequate, and the requirements of the district can be better served by road transport.

Special annual licences are required under the Act for the use of omnibuses and commercial goods vehicles. The Board is charged with the issue of such licences, and with the duty to consider and determine applications, and the conditions, if any, that should be imposed if a licence is granted. Before granting or refusing a licence the Board is required to consider : (*a*) the necessity for the service proposed to be provided and the convenience which would be afforded to the public by such service ; (*b*) the existing transportation service for the conveyance of passengers or the carriage of goods upon the routes or within the area proposed to be served in relation to : (i) its present adequacy and possibilities for improvement to meet all reasonable public demands ; (ii) the effect upon such existing service of the service proposed to be provided. It must be a condition of every licence : (*a*) that the vehicle is maintained in a fit and serviceable condition ; (*b*) that the provisions of any other Act or regulation which are applicable to the vehicle and its operation are complied with ; (*c*) that in the case of an omnibus the provisions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation are complied with, and the requirements of the Traffic Act relating to insurance are observed ; and (*d*) that in the case of a commercial goods vehicle provisions of the Act relating to the limitation of the hours of driving are complied with. The Board may, in

[1] *Journ. Comp. Leg.*, Third Series, vol. iii, pt. ii, p. 79.

its discretion, attach to any licence conditions that the vehicle shall operate only upon a specified route or in a specified area ; and in the case of an omnibus that not more than a specified number of passengers shall be carried at any one time, that specified time-tables shall be observed, and that specified fares shall be charged ; and, in the case of either kind of vehicle, that prescribed records and statistics shall be kept and supplied to the Board. A licence, however, is not necessary in respect of any commercial goods vehicle which operates solely in the area within a radius of fifteen miles from the General Post Office in the city of Perth ; or operates solely within a radius of fifteen miles from the place of business of the owner ; or is used solely for purposes mentioned in a schedule to the Act ; as, for instance, the carriage of produce of farms and sheep or cattle stations, or farming requisites, between any farm or station and the railway or town nearest to the farm or station ; the carriage of grain in a vehicle owned by the producer to a flour mill, and the carrying from such mill flour, etc., received in exchange for such grain for use on the farm where the grain was produced ; the carriage of ore from mines and mining requisites within a prescribed mining district ; the carriage of milk or cream to the nearest factory ; as a feeder to or from any country railway station or siding, provided that the vehicle is not operating at a distance beyond thirty-five miles from such station or siding.

Provisions are made for aircraft, and a licence may be required where journeys are made from some place within the State south of the 26th parallel of south latitude to some point of destination within the State, except in cases of emergency.

The Board may make regulations that are necessary or expedient to carry the Act into effect subject to the approval of the Governor-in-Council.

Mine workers' Relief.—By Act No. 34, amending No. 37 of 1932 relating to the relief of miners in respect of the diseases of silicosis and tuberculosis,[1] the rights under the Miners' Phthisis Act, 1923, of workers who were reported to be suffering from tuberculosis prior to the commencement of the Mine Workers' Relief Act on February 1, 1933, are preserved in view of the Miners' Phthisis Act ceasing to operate after that date, and provision is made for the adjustment of the rights of workers claiming under the Mine Workers' Relief Act who are in receipt of, or had received, compensation under the provisions of the Workers' Compensation Act relating to industrial diseases.

7. PAPUA.

[*Contributed by the* Hon. Mr. Justice R. T. Gore.]

Ordinances passed—13.

Light Dues.—No. 3 provides for the payment of light dues by overseas vessels calling at a proclaimed port in the Territory. Power is given to extend the provisions of the Ordinance by Order in Council to coastal vessels. Light dues are payable to the principal officer of customs at the port where they are levied, or to a magistrate if there is no officer of customs. Liability for the payment of dues may fall upon the owner, the master, or upon a consignee or his agent, under certain circumstances. Evasion of payment may entail the payment as a penalty of a sum equal to the amount of the light dues evaded, and in addition a further penalty

[1] See *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 98.

not exceeding £20. Dues and penalties may be recovered by summary procedure before a magistrate.

Public vessels of any Government, any vessel under special mail contract and any other class of vessel specially exempted by Order in Council, are exempt from the payment of light dues.

Native Suitors.—No. 5 provides for the representation of natives in legal proceedings. In any court of competent jurisdiction any officer of the Territory may, as nominal plaintiff, take proceedings on behalf of a native. The officer taking proceedings as nominal plaintiff is freed from liability for the costs and expenses of or incidental to such proceedings. Power to make regulations is given.

Immigration Restriction.—No. 9 inserts a new subsection in s. 10A of the principal Ordinance. S. 10A of the principal Ordinance provides (*inter alia*) that where the Lieutenant-Governor is satisfied that within five years of the arrival in the Territory of a person who was not born in the Territory that person has been convicted in the Territory of a criminal offence punishable by imprisonment for one year or longer, he may make an order requiring such person to leave the Territory within a time fixed by the order, and thereafter to remain out of the Territory. By the new subsection any order or copy of an order made by the Lieutenant-Governor in such case shall be a sufficient warrant to any officer of police or member of constabulary to arrest the person named in the order, and to hold him in custody either in one of His Majesty's prisons or elsewhere, or to convey him and hold him in custody on board any vessel about to leave the Territory until such order is complied with. The person named in the order shall be regarded as a prohibited immigrant. No action shall lie against the Lieutenant-Governor or against any other person for anything done or purporting to be done in good faith under the Ordinance.

By the principal Ordinance any person in the opinion of the executive authority likely to become a charge upon the public or upon any public or charitable institution is a prohibited immigrant. Now, by the amending Ordinance (No. 12), any such prohibited immigrant may be permitted to enter and remain within the Territory upon terms and conditions prescribed by regulations. Regulations made in this behalf shall be laid before the Legislative Council at the next session after publication. Upon a breach of any of the prescribed terms and conditions, any prohibited immigrant who has entered the Territory under them shall be deemed a prohibited immigrant found within the Territory in contravention of the Ordinance.

Native Labour.—Minor amendments to the principal Ordinance are made by No. 11, only two of which need be mentioned. By the principal Ordinance a native may re-engage with the same or another employer if not forbidden by Proclamation. A proviso is now added that no native shall without the written consent of the Commissioner be permitted to re-engage under contract of service until he has been paid the wages in full under the previously expired contract.

A native labourer is not entitled to be paid wages for the time he was absent from his service through desertion ; but the court that convicts him may, if it thinks fit, upon the application of the employer, make an order that the time he was away from his service shall not be counted in reckoning the time which he must serve in order to complete his service.

Land.—By No. 13 an alteration is made in the constitution of the Land Board. An applicant for a lease may, while awaiting the result of his

application, with the permission of the nearest resident magistrate signified in writing, go into occupation of the land applied for where it is the property of the Crown. If for any special reason the Lieutenant-Governor thinks fit, a lease of any land that has been granted under lease by the Crown and has reverted to the Crown either by forfeiture or by surrender or otherwise may be offered and sold either by auction or tender subject to terms. A lease of any portion of such land may be similarly dealt with. The sale by auction or tender shall be carried out in such manner and at such upset price as may be prescribed by regulation.

Other amendments to the principal Ordinance are made, but only of a minor nature not worthy of comment.

IV. NEW ZEALAND.

[*Contributed by* J. Christie, Esq., C.M.G., LL.M., *Parliamentary Law Draftsman.*]

Acts passed: Public Acts—52; Local Acts—19; Private Act—1.

Introductory.—Most of the legislation passed by the New Zealand Parliament in 1931 and 1932 had reference to the special conditions created by the fall in the overseas prices of our primary products. Though those conditions persisted throughout 1933, though less acutely, the legislation of that year is of a more general and permanent character. The Companies Act is a measure of outstanding importance; it is based on the Companies Act, 1929 (Imperial), and, in most of its material particulars, follows closely the Imperial model.

Another important measure is that which deals with the establishment of the Reserve Bank of New Zealand. A complementary measure is the Coinage Act, which provides for the issue of a distinctive New Zealand coinage. Trade agreements made between the Governments of Australia and New Zealand and the Governments of Belgium and New Zealand respectively were ratified and confirmed.

Consolidating measures (with amendments in each case) comprise the Municipal Corporations Act (with 393 sections and 13 schedules) and the Mortgagors and Tenants Relief Act. Somewhat novel provisions are included in the Motor Spirits (Regulation of Prices) Act, which empowers the Governor-General in Council to fix both the maximum and the minimum prices at which motor spirits may be sold. No special mention of the remaining legislation is called for here, but the more important measures are dealt with in the following survey.

Arbitration.—The Arbitration Clauses (Protocol) and the Arbitration (Foreign Awards) Act (No. 4) is substantially in the same terms as the Imperial Acts 10 & 11 Geo. 5, c. 81, and 20 Geo. 5, c. 15.

Both the protocol on arbitration clauses (signed at Geneva on September 24, 1923), and the convention relating to foreign arbitral awards (signed at Geneva on September 26, 1927), have been ratified in respect of New Zealand. The purpose of the present Act is to implement by the necessary legislation the obligations accepted by New Zealand by the act of becoming a party to the Protocol and Convention respectively.

Marriage of Minors.—The Marriage Amendment Act (No. 5) in effect adopts the provisions of s. 1 of the Age of Marriage Act, 1929 (Imperial),

and declares to be void any marriage to which either of the parties is under the age of sixteen years. Prior to the passing of this Act, the age of marriage was not directly fixed by statute. Provision is also made by the present Act to enable women to act as officiating ministers for the solemnization of marriages.

Rent Restriction.—Once again, the duration of the law imposing restrictions on the rents that may be charged for dwellings (originally passed in 1916 as a war measure) has been extended by No. 7 for a further period of one year. The present law has a very limited actual application, but has a potential application which tends to keep down the rent of workers' dwelling-houses.

Tariffs.—The Trade Agreement (New Zealand and Australia) Ratification Act (No. 10) ratifies an agreement for customs reciprocity made between the Governments of Australia and New Zealand. The Trade Arrangement (New Zealand and Belgium) Act (No. 24) similarly confirms an arrangement for customs reciprocity contained in letters passed between the Prime Minister of New Zealand and the consul of Belgium in New Zealand acting on behalf of the Economic Union of Belgium and Luxemburg. Both agreements are limited in their application to specified classes of goods, goods of non-specified classes imported into New Zealand from either of the aforesaid countries remaining subject to the British preferential tariff or the general tariff, as the case may be.

Banking.—The Reserve Bank of New Zealand Act (No. 11) is one of the most important measures passed in the 1933 session. It provides for the establishment of a reserve or central bank, much on the lines of other similar banks that have been established elsewhere.

The capital of the bank is fixed at £500,000 divided into £5 shares. Only British subjects who are ordinarily resident in New Zealand are qualified to hold shares, whether by allotment under s. 6 of the Act or by transfer in accordance with the rules of the bank, as prescribed in the First Schedule, no person being competent in any case to hold more than 500 shares whether in his own right or as trustee. The maximum return to shareholders is fixed at a cumulative dividend of 5 per cent. per annum on paid-up capital. Provision for the establishment of the bank's reserve fund is made by s. 10, which directs the Minister of Finance to pay over, either in cash or in government securities, an amount of £1,000,000, to be recoverable only in the event of the winding-up of the bank.

The sole right of issuing bank-notes in New Zealand is conferred on the Reserve Bank, and when this provision becomes operative the right to issue notes at present enjoyed by the several trading banks will cease.[1]

The most contentious provision in the Act relates to the disposition of the gold coin or gold bullion now held by the trading banks ; s. 15 requires that this gold be transferred to the Reserve Bank in exchange for an equivalent value of reserve bank-notes, the value of gold, for purposes of the exchange, being fixed at its nominal value (in the case of gold coins) and the sum of £3 17*s.* 10½*d.* per ounce (in the case of bullion). Any profit that may accrue from the sale of the gold by the Reserve Bank is to be credited, not to the bank itself but to the Public Account.

At first sight and in view of the present market price of gold, this provision may appear to be in the nature of confiscation, and so, in round

[1] By virtue of a Proclamation dated January 26, 1934, issued in anticipation of the establishment of the Reserve Bank, the bank's right to issue bank-notes accrues on August 1, 1934.

terms, it has been described by the opponents of the policy to which it gives effect. But the fact remains that the banks have had possession of the gold only because, by legislation and governmental action, their notes have been made legal tender. If they were now called on to redeem their obligations to pay out gold for their notes their supplies of gold would not be sufficient for the purpose. Being relieved by the Reserve Bank of their obligations in respect of their notes, they have no obvious moral right to receive any profit that may accrue from the sale of the gold. The persons so entitled would appear to be the persons holding notes of the banks or credit with the banks. Payment of the profit, if and when the gold is disposed of, into the Public Account, as representing the interests of the whole community, seems to be a fair and reasonable solution of a problem that presents many difficulties.

The management of the Reserve Bank is placed in the hands of a board of directors, consisting of a governor and deputy governor, the Secretary to the Treasury (who is a director by virtue of his office) and seven other members. The governor and deputy governor are required to be persons possessed of actual banking experience. The first governor (who has already been appointed for a term of seven years) comes from the Bank of England.

Of the seven other members, three are to be known as State directors, and are to be appointed by the Governor-General in Council ; the remaining four members (known as shareholders' directors) are to be appointed in the first case by the Governor-General in Council, but their successors are to be elected by the shareholders. Two of the shareholders' directors must be men who have been actively engaged in primary industry and two in commercial or industrial pursuits. After the expiry of the first term of office of the governor and deputy governor, their successors are to be appointed by the Governor-General in Council on the recommendation of the board of directors.

The profits of the bank are distributable as follows : (1) a cumulative dividend of 5 per cent. to shareholders ; (2) so long as the general reserve fund of the bank is less than the paid-up capital, the surplus, after payment of dividend, is made payable in equal proportions to the reserve fund and to the Consolidated Fund of the Public Account ; (3) if the reserve fund exceeds the paid-up capital but is less than twice the paid-up capital, one-tenth of the surplus goes to the reserve fund and the residue is payable to the Public Account ; (4) if the reserve fund exceeds twice the paid-up capital, the whole of the surplus, after payment of dividend, goes to the Public Account.

All government accounts are required to be kept with the Reserve Bank. The several trading banks are required to maintain with the Reserve Bank a prescribed proportion of their demand and time liabilities.

The bank is wholly exempted from public taxation, but is subject to local rates.

Coinage.—Act No. 12 makes provision for the minting of a special coinage for New Zealand. Hitherto the Imperial Coinage Acts, 1870 to 1920, have been in force in New Zealand, but the present Act replaces the Imperial legislation. In the meantime British coins remain legal tender, to the same extent as before the Act now under review was passed, but ultimately the New Zealand coinage will replace the British coinage and also the Australian coinage which, though not legal tender, is in common use. The change over to New Zealand coinage is now in progress.

No express provision is made in the Act for the minting of the new coinage; in the meantime arrangements for an immediate supply of silver coins has been entered into between the Government and the Master of the Royal Mint in London, but the terms of the Act are sufficiently wide to permit of the minting of coins in New Zealand if such a course were considered practicable.

Interest Reduction.—S. 3 of the Local Authorities Interest Reduction and Loans Conversion Amendment Act (No. 14) removes certain difficulties that have arisen under the Act passed in the preceding session (1932–33, No. 41) for effecting a reduction in the rate of interest payable by local authorities on their existing debt, and excludes from the operation of Part I of the previous Act those securities which confer on the holders an option to demand payment of interest in the United Kingdom or in New Zealand unless the interest is in fact paid in New Zealand. The other provisions of the amending Act do not call for mention here.

Weights and Measures.—Act No. 15 provides for the periodical verification with the corresponding Imperial standards of the New Zealand standard yard and the New Zealand standard pound, and amends in other minor particulars the principal Act of 1925. The amending Act has been passed to give effect to certain recommendations adopted at the Imperial Conference of 1930, on the recommendation of the Sub-Conference on Standards and Standardization.

Poultry Industry.—The Poultry-runs Registration Act (No. 20) is complementary to the Poultry Act, 1924. That Act was concerned with the avoidance of disease and the marketing of produce; the later Act provides for the registration of all commercial poultry-runs where more than twenty-five head of poultry are kept, and for the constitution of an elective board whose general function is to organize and develop the poultry industry.

The Bill was promoted by the Government at the request of representatives of the industry, but was proceeded with in the face of considerable opposition. The influence of the opponents of the measure is traceable in s. 16, which requires that, on presentation of a petition, a poll of proprietors shall be taken after three years' experience of the working of the Act on a proposal that the Act be then allowed to expire.

Moneylenders.—Act No. 21 requires that moneylenders shall be registered annually, after application made to a stipendiary magistrate, who has authority to make inquiries as to character and other relevant matters and to refuse registration unless satisfied as the result of such inquiries that the applicant is a proper person to carry on the business of moneylending. The amending Act also adopts in effect the provisions of the Moneylenders Act, 1927 (Imperial), relating to (*a*) restrictions on advertisements (s. 5); (*b*) the form of contracts (s. 6); (*c*) prohibition of charging compound interest (s. 7); (*d*) imposing obligation on moneylenders, on request of borrowers, to furnish signed statements of account with prescribed particulars (s. 8); (*e*) reopening of harsh and unconscionable agreements (s. 10).

Summer Time.—Act No. 22 extends by a period of seven weeks the period of "summer time," by providing that it shall commence on the last Sunday of September in each year (instead of the second Sunday of October) and shall continue until the last Sunday in April (instead of the third Sunday in March). This alteration will involve the falling of the Easter holidays within the period of "summer time." During the

period of " summer time " time for general purposes is deemed to be thirty minutes in advance of New Zealand standard time, which is eleven and a half hours in advance of Greenwich mean time.

Transport.—The Transport Law Amendment Act (No. 25) establishes a Transport Co-ordination Board and makes various amendments of the Transport Licensing Act, 1931. The immediate function of the Transport Co-ordination Board is to hear appeals under the Transport Licensing Act (the Transport Appeal Board under that Act being abolished in consequence). Its general function (from which it derives its name) is to make inquiries, investigations and recommendations with a view to securing the improvement, co-ordination and development, and better regulation and control of all means of and facilities for transport and all matters incidental thereto. Though the Transport Licensing Act is limited to transport by means of motor vehicles, the functions of the Co-ordination Board embrace railway, air and steamship services as well as motor services. The amendments of the Transport Licensing Act do not make any radical changes in the policy of that Act under which motor services for the carriage of passengers and of goods are licensed and regulated.

Immigration Restriction.—By the Immigration Restriction Amendment Act passed in 1931, temporary authority was given to the Governor-General in Council to prohibit or to restrict " the landing in New Zealand of persons of any specified nationality or race or of any specified class of occupation, " such authority being given and to be exerciseable " on account of any economic or financial conditions affecting trade and industry in New Zealand." The authority so conferred was due to expire on December 31, 1933, but has been extended for a further period of two years by Act No. 28.

Company Law.—The Companies Act (No. 29) adopts with modifications to suit local conditions the Companies Act, 1929 (Imperial). As far as possible the language and arrangement of the Imperial Act have been adhered to. Following the conventional arrangement of New Zealand Statutes, the interpretation section and the administrative provisions come at the beginning of the Act instead of, as in England, at the end. The provisions relating to private companies are collected in a separate part, which is based upon the former provisions of the New Zealand law rather than upon the English law. This departure from the English Act is consequent on the material differences in nature between the English private company and the private company as known in New Zealand. These differences may be generally stated as follows: In England a private company is one that by its articles (1) restricts the right to transfer its shares; (2) limits the number of its members to fifty; and (3) prohibits any invitation to the public to subscribe for its shares or debentures. If such a company alters its articles so that they do not comply with the foregoing requirements of a private company, it automatically ceases to be a private company and becomes a public company. In New Zealand, however, a private company is a company that is registered as such, and it remains a private company unless and until it is dissolved, or is re-registered as a public company. A private company cannot be registered with less than two or more than twenty-five members; if a private company reduces its membership below two it loses the benefits of limited liability, and if it increases its membership above twenty-five its members become liable to heavy penalties. The provisions of the Act that are not applicable to private companies are enumerated in the Seventh Schedule;

except as specified in that Schedule or as specially provided in Part VIII of the Act the general provisions of the Act apply to private companies in the same way as they apply to public companies.

The provisions of Part XIV (Insurance Companies) and of Part XV (Mining Companies) have no counterpart in the Imperial Act and are based on the corresponding provisions of the New Zealand Act of 1908. The provisions as to the so-called " labour shares " and the special provisions as to dairy companies are peculiar to New Zealand. In all other respects the Act follows as closely as possible the provisions of the Imperial Act.

In the preparation of the Bill the Government was ably assisted by an honorary advisory committee which included among its members representatives of the business community and the professions of accountancy and law.

Local Government.—The Municipal Corporations Act, (No. 30) is a consolidation with extensive amendments of the Municipal Corporations Act, 1920, and the several amendments of that Act. The new Act contains 393 sections and 13 Schedules. It contains the general law as to the constitution and administration of boroughs (including the eight larger boroughs which are known as cities). The Act deals, *inter alia*, with the following matters: (1) the constitution of boroughs; (2) the administration by borough councils; (3) the selection of mayors and councillors; (4) the appointment of officers; (5) finance (including rating powers); (6) special and general powers of borough councils; (7) by-laws.

In addition to the provisions of this Act (which are common to all borough councils), many local empowering Acts are on the statute-book, conferring particular powers on the respective councils by which they have from time to time been promoted.

Trustees.—Ss. 2 and 3 of Act No. 32 re-enact provisions originally enacted in Finance Acts. S. 2 protects a trustee from liability for continuing to hold an investment which has ceased to be an authorized investment. S. 3 empowers trustees in certain cases and with the consent of the court to borrow on the security of the trust estate for the advancement or maintenance of any persons for whose benefit the capital or portion of the capital of the trust estate is held.

S. 4 defines the powers of trustees in relation to company securities or shares held by them. It in effect enacts the provisions of s. 10 of the Trustee Act, 1925 (Imperial), which defines the powers of trustees to concur in schemes of company reconstruction and kindred matters. S. 5 is a modification of the general provisions of the Bankruptcy Act by virtue of which all the property and rights of the bankrupt vest in the Official Assignee in Bankruptcy; it protects from the operation of those general provisions a trustee who in good faith pays or transfers to or to the order of a bankrupt any money or other property which the bankrupt would have been personally entitled to receive if he had not become bankrupt.

Finance.—Very little of general interest is to be found in Act No. 33. The most important provisions, from the point of view of governmental policy, are those contained in s. 12. When the Bill containing this clause was introduced, it was thought (on the authority of *Broken Hill Proprietary Co.* v. *Latham*, [1933] Ch. 669) that local bodies in Dominions having a depreciated currency could discharge their legal obligations in respect of their London loans by payment in their local currency. This

view, as a general proposition, has since been overruled, but the purpose of s. 12 was briefly to ensure that, irrespective of any technical rights, New Zealand local authorities would be required to satisfy their London obligations as if in the debentures or other securities issued by them they had expressly stipulated that payment of interest and repayment of principal would be made in sterling.

S. 10 also contains provisions of some general interest but of quite a different kind. It extends for a period of five years a scheme introduced by s. 27 of the Finance Act, 1927, by virtue of which part of the cost of experimental work undertaken by the Government (operating through the Department of Scientific and Industrial Research) for the improvement in the quality of wheat and flour is imposed on growers of wheat, on millers and on bakers, by means of a levy assessed on the price of wheat and flour. The scheme was originally adopted by the Government at the request of representatives of the industries directly affected.

Land Valuation.—Act No. 35 reflects the fall in land values consequent on the fall in the prices of primary products. Under the Act of 1925 (re-enacting provisions which have been in force for thirty years or more) an owner who is dissatisfied with the government valuation of his land (which is adopted as the basis for the levying of local rates and of land-tax) could demand either a reduced valuation or that the land be acquired by the Crown at the government valuation. This afforded a too easy method of securing reductions in valuation and consequent reductions in taxation, for it was impracticable for the Government to purchase, even at a reasonable price, all the land that might be offered to it under present abnormal conditions. This provision has now been amended by requiring a dissatisfied owner to offer the land for sale either to the Government or to any purchaser approved by the Government.

Another amendment (due to the same fall in the price of primary products, with its reactions upon the value of land) is made by s. 5 of the Act now under review. This section enables a local authority to fix as a basis for rates a proportion of the government valuation. The purpose of this provision is to adjust inequalities caused by the action of certain owners in securing special valuations of their land, since the fall of values set in, to the detriment of those owners whose earlier valuations subsist.

Mortgagors' and Tenants' Relief.—Act No. 34 consolidates no less than five separate Acts and three sections in various Finance Acts, the first of the consolidated Acts being passed in the emergency session of 1931. The only new provisions of material importance are those contained in s. 11. As indicated in the review for 1932, stock mortgages (that is chattel mortgages securing the current accounts of farmers) have been a source of difficulty, the position being that while a mortgagee of the land on which farming operations are carried on was in effect prevented by the legislation from pursuing his legal rights, there was no corresponding restriction on the mortgagee whose interests were secured by a mortgage over the stock and produce of the farm. The difficulty was overcome to a considerable extent by mutual agreement between the interests affected (principally the land mortgagee and the stock mortgagee). But it was said that some stock mortgagees showed an unreasonable disregard for the interests of the land mortgagee, and refused to enter into any agreement to protect their mutual interests. In such cases the Supreme Court, by s. 11 of the new Act, is empowered to formulate a scheme for the distribution of the proceeds of the farming operations, and for the guidance

of the court agreements that have been entered into by the parties and are actually operating are set out in a Schedule to the Act.

Motor Spirit.—The object of the Motor Spirits (Regulation of Prices) Act (No. 36) could have been effected by regulations made under s. 26 of the Board of Trade Act, 1919, which expressly confers on the Governor-General power to make regulations "for the establishment of fixed or maximum or minimum prices or rates for any classes of goods or services." But a good deal of popular exception has been taken to the exercise of the powers conferred by that Act, and the Act under review was passed to confer express powers on the Governor-General with respect to motor spirits. The machinery provisions of the Act follow closely the corresponding provisions of the Board of Trade Act referred to above and of the Regulation of Trade and Commerce Act of 1914 (which was passed during the war and was repealed in 1921). By the last-named Act provision was made to the effect that contracts made in contravention of the Act should be null and void, but this provision has not been repeated in the Act now under review, penalties for offences being fixed at £200 in the case of an individual and £1,000 in the case of offences committed by corporations.

Card Tournaments.—The purpose of the Card Tournament Regulations Act (No. 38) is to regularize the holding of card tournaments for religious, charitable, educational or other approved purposes, where a charge for admission is made and prizes are awarded to winners.

The Act relieves the promoters of any such tournament from liability to prosecution under the Gaming Act if notice of intention to hold the tournament is duly given to the police and if an audited statement of receipts and payments is supplied within fourteen days after request by an Inspector of Police.

Poor Prisoners' Defence.—Act No. 40 in effect adopts the provisions of the Poor Prisoners' Defence Act, 1930 (Imperial), and repeals the former provisions of the law which were an adaptation of the Imperial Act of 1903. The new Act has a wider scope than the former law in that it provides for legal aid in respect of offences punishable summarily, and further, it gives to any person accused of murder an unconditional right to legal aid if his means are insufficient to enable him to obtain such aid.

Sales Tax.—Act No. 42 does not alter in any material particular the principal Act passed in the previous Session, but is mainly concerned with the removal of anomalies or administrative difficulties.

It was suggested, for example, that because the taxpayer has authority to add the amount of tax to the price of goods sold by him, the tax becomes in reality a tax payable by the purchaser, and further, that, because of the Crown's general exemption from tax, sales tax was accordingly not payable on goods sold to the Crown. The language of the principal Act does not support such a contention, but to satisfy the requirements of the Audit Office the matter was dealt with explicitly in s. 2 of the amending Act. Another and more important amendment, bringing the law into conformity with the administrative practice, is contained in s. 3, which makes tax payable for services performed by a contractor on materials provided by the person for whom work is done. For example, sales tax is payable on the price charged by a tailor who makes a suit from cloth supplied by his customer.

Income-tax.—By the Land and Income-tax Amendment Act, 1932–33, taxpayers being married men were allowed a special exemption of

£50 for income-tax purposes. Act No. 43 makes a complementary provision for the benefit of taxpayers being married women who support their husbands. A somewhat similar provision is made in favour of widowed taxpayers (either men or women) in cases where the taxpayer employs a housekeeper to have control over a child or children in respect of whom the taxpayer is entitled to a special exemption under the principal Act. The exemption provided for by the principal Act in respect of premiums on life insurance policies is modified by excluding premiums paid in respect of pure endowment policies (that is, policies that do not provide for the payment of a specified capital sum on the death of the assured).

Unemployment. — The Small Farms (Relief of Unemployment) Amendment Act (No. 44) extends the Act of 1932, which converted the original scheme for a somewhat informal occupation of unused lands into a typical land settlement scheme. Express authority is given to the Minister to expend money for the purchase of stock, implements, manures, etc., in connexion with the small farm scheme. Lands vested as endowments in local authorities but not immediately required for other purposes may be leased as small farms, but in such cases the tenant is not given a right to acquire the fee simple.

By s. 8 of the amending Act certain concessions in respect of liability to land-tax and the capacity to hold land are granted to incorporated "land settlement" societies, whose objects include the relief of unemployment by means of land settlement and whose rules do not allow of any pecuniary gain being derived by members from the operations of the society.

Law of Libel.—Act No. 47 confers qualified privilege (that is privilege in the absence of proof of malice) in respect of the publication of a fair and accurate report of the proceedings in any inquiry held in accordance with the rules of an association formed to control the sport of horse-racing, or of a fair and accurate report of the result of any such proceedings. The Bill as introduced by the Government was not limited to horse-racing but extended to the proceedings and findings of domestic tribunals functioning in accordance with the rules of any organization established for the promotion and control of any sport, but was limited, as indicated above, on the recommendation of the Select Committee to which it was referred by the House of Representatives.

Co-operative Companies.—By the Co-operative Dairy Companies Act, 1907, provision was first made for the registration of co-operative companies having for their principal object the manufacture of dairy produce from milk supplied by shareholders. One of the special features of these co-operative companies is the statutory right to require the surrender of shares and the power to re-issue surrendered shares. In recent years there has been a considerable development in the pig industry, and the Co-operative Pig-marketing Companies Act (No. 49) is an adaptation to meet the requirements of the newer industry of the special provisions of the earlier Act relating to co-operative dairy companies.

Dairy Industry.—Purporting to act under the authority conferred by the Dairy Industry Act, 1908, the Governor-General in Council recently made regulations known as the Dairy Produce General Regulations, 1933. These regulations included a provision in the following terms :

No owner or manager of any cheese factory, creamery or skimming station shall at any time during the period of ten months extending from the 1st day of August in any year till the 31st day of May in the next succeeding

year purchase milk or cream produced in any supplying dairy if at any time previously during the same period milk or cream produced in such supplying dairy has been supplied to the owner of any other cheese factory, creamery or skimming station.

Proceedings to test the validity of this regulation were taken on originating summons under the Declaratory Judgments Act, 1908, and because of the importance of the subject-matter the proceedings were moved into the Court of Appeal for argument and determination. The Court of Appeal unanimously held that the regulation in dispute was *ultra vires*. In the course of his judgment the Right Hon. the Chief Justice said: "The clause is a serious interference with the liberty of the individual farmer to carry on his lawful business in his own way. Its effect, if valid, is to compel him, once he commences supplying his milk or cream to a particular cheese factory, creamery or skimming station at the beginning of any season, to continue his supply to that cheese factory, creamery or skimming station, whether he likes it or not, throughout the whole of the season." Having pronounced that in his opinion the regulation in question was made without authority, and therefore *ultra vires* and void, the Chief Justice in his judgment proceeds as follows: "If it be thought necessary to interfere with either the personal liberty of the subject or his freedom in exercising a lawful trade or business and particularly of the sale of his own goods in the market of his own choice, it can scarcely be doubted that such a matter should (except where emergency conditions require otherwise in the interests of the public safety) be the subject of direct legislation by Parliament itself in appropriate, clear and unequivocal language rather than be left to the discretion of a delegated authority."

It being the policy of the Government that the Governor-General in Council should have that very authority denied to him by the Court of Appeal, in its construction of the existing law, express authority to make regulations controlling the supply of milk and cream to dairy factories has now been conferred by Act No. 51. The qualifications and appointment of dairy factory managers have also, by the same Act, been made the subject-matter of regulations.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* RANSLEY THACKER, ESQ., *Attorney-General.*]

Thirty-eight Ordinances were passed by the Legislative Council during 1933, of which the following are the principal:

Matrimonial Causes.—Ordinance No. 5 reproduces the law, as it stands in England to-day, on the subjects of divorce, nullity of marriage, judicial separation and the restitution of conjugal rights.

Currency Notes.—Ordinance No. 6 provides for the manner in which the currency needs of the Colony will in future be met. It gives the Commissioners of Currency power to issue currency notes in the Colony to the equivalent value (at the rate of £111 Fiji for £100 sterling) of sums lodged with the Crown Agents in London, and to pay out on demand through the Crown Agents to any person desiring to receive sterling in London the

value of currency notes lodged in the Colony at the rate aforesaid. Provision is made for a note security fund and a currency note income account, and sections are included which deal with evidence in criminal proceedings, forgery and imitation of currency notes, possession of counterfeit notes and defacing of notes.

Bahamas and Leeward Islands Light Dues.—Ordinance No. 9 provides for the collection of light dues from ships calling at any port in the Colony which have derived benefit from certain lighthouses in the Bahamas and Leeward Islands.

Life Assurance.—Ordinance No. 10 provides for the issue of special policies in place of those which have been lost or destroyed, mainly owing to hurricanes and floods. At the same time the companies are relieved of liability under the original policies which may have been lost or destroyed.

Land Transfer and Registration.—Ordinance No. 14 brings up to date the law relating to registration of title to land under the land transfer system. New powers, some of them of a semi-judicial nature, are conferred upon the Registrar of Titles with a view, *inter alia*, to decreasing the costs of certain proceedings, and for this reason it is provided that any future appointee to that post shall be a qualified barrister or solicitor. An assurance fund is established out of which any persons sustaining loss by reason of any omission, mistake or misfeasance of the Registrar or any of his officers may be compensated.

Trade Marks.—Ordinance No. 18 brings the law dealing with trade marks into line with modern practice.

Designs.—Ordinance No. 19 provides for the registration of industrial designs. There was formerly no legislation on this subject in the Colony.

Public Officers' Protection.—Ordinance No. 21 protects persons acting in the execution of statutory and other public duties, and its general effect is to limit actions against public officials to six months after the act, neglect or default giving rise to the action.

Forced Labour Prohibition.—Ordinance No. 22 carries out certain obligations under the Treaty of Versailles, and, in accordance with the Convention concerning Forced or Compulsory Labour, forbids the exaction or employment within the Colony of forced labour as defined in the Ordinance.

Public Health.—Ordinance No. 25 gives additional powers to the Health Authorities with the object of improving sanitary conditions, especially in towns.

Fruit Export and Marketing.—Ordinance No. 26 empowers the Government to appoint a particular firm or firms, in the particular country concerned, to act as agents for the disposal of all bananas exported to that country, in an endeavour to enable prices to be maintained at a remunerative level.

Immigrants.—Ordinance No. 33 makes certain amendments to the Immigrants Ordinance, 1909, with the object of providing for greater control by the authorities over undesirable or destitute immigrants.

Native Lands.—Ordinance No. 34 clarifies the provisions of the law with regard to compensation to outgoing lessees for improvements effected by them on native lands.

The Native Lands (Occupation) Ordinance No. 35 is designed to encourage Fijian natives who desire to become independent planters and to live outside the communal system by creating machinery to enable them

to acquire individual tenure of land, for a period not exceeding ten years, in an inexpensive and simple manner.

2. WESTERN PACIFIC.

(i) GILBERT AND ELLICE ISLANDS COLONY.

[*Contributed by* His Honour Captain W. H. Maxwell-Anderson, C.B.E., K.C., R.N. (ret.), *Chief Judicial Commissioner, W.P.H.C.*]

Only four Ordinances were passed in 1933.

Forced Labour.—No. 1 was enacted to give effect to the provisions of the International Convention relating to forced labour.

Merchant Shipping.—No. 4 provides for the proper ballastry of native cutters with non-inflammable ballast. This Ordinance was necessary, as the custom had become prevalent of using copra as ballast in passenger-carrying vessels.

The other two Ordinances call for no comment.

(ii) BRITISH SOLOMON ISLANDS PROTECTORATE.

[*Contributed by* His Honour Captain W. H. Maxwell-Anderson, C.B.E., K.C., R.N. (ret.), *Chief Judicial Commissioner, W.P.H.C.*]

Eight King's Regulations were enacted in 1933.

Forced Labour.—No. 1 gives effect to the provisions of the International Conference relating to forced labour.

Dangerous Drugs.—No. 2 brings up to date the list of drugs and poisons capable of improper use and only to be imported under licence.

Imperial Preference.—No. 8 was the Customs Duties Regulation which provides for a preferential tariff on Empire goods.

The remaining five regulations are of merely local importance.

(iii) KINGDOM OF TONGA.

[*Contributed by* J. S. Neill, Esq., *H.B.M.'s Agent and Consul.*]

Acts passed—18.

Salaries (Levy).—Act No. 3 is a budgetary measure providing for a levy on salaries during the financial year 1933–34. The levy is as follows: on the first £300, 2½ per cent.; on the next £200, 5 per cent.; on the remainder, 7½ per cent.

Cinematographs.—No. 4 is an enabling Act to permit the Executive to make regulations for the adequate censorship of films and the control of the display of posters.

Silver Coin (Importation).—Act No. 6 regulates the import of silver coin. A condition precedent to import is a permit from the Executive.

Post Office.—The accession of Tonga to the Postal Union Convention necessitated the enactment of a comprehensive Act (No. 12) relating to the establishment and regulation of the Post Office.

Customs Duties.—Act No. 18 provides for a preferential tariff on goods the produce or manufacture of the Empire. The *ad valorem* rate of 12½ per cent. (the import rate on all goods not subject to specific duties under the repealed Act) is retained as the preferential rate; the general tariff is fixed at 20 per cent. *ad valorem*. On certain goods subject to specific duties the new Act provides for preferences.

(iv) NEW HEBRIDES.

[*Contributed by* His Honour G. A. Joy, *Resident Commissioner.*]

No regulations were enacted during the year 1933.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* A. A. Schoch, Esq., *Senior Law Adviser.*]

In 1933 the Parliament of the Union of South Africa passed thirty-four Acts, of which the following are public Acts dealing with subjects of general interest:

Usury.—S. 5 of the Usury Act, 1926, required, *inter alia*, that every instrument of debt in respect of a loan should set forth "the amount actually paid to the borrower." In recent years the Supreme Court in several instances interpreted this requirement in such a manner that a large number of mortgage bonds were found to be invalid because they did not comply strictly with this requirement. Act No. 1 of 1933 was therefore passed, with retrospective effect, in order to validate such bonds and other instruments of debt and to amend slightly the wording of the said s. 5. This validation has the curious effect that the failure to set forth certain facts in an instrument of debt amounts to a criminal offence under Act No. 37 of 1926, and yet that failure does not detract in any way from the validity of that instrument.

Act No. 1 further extends to the Land and Agricultural Bank the exemption of the commercial banks from most of the provisions of the Usury Act and also amplifies that exemption.

Industrial Conciliation.—Act No. 7 amends the Industrial Conciliation Act, 1924, in order to facilitate the settlement of disputes between a local authority and its employees engaged in certain essential services, and it applies certain provisions of the Act dealing with the settlement of such disputes to a private employer (and to his employees) if he supplies at least half of his output of light, power or water for consumption within the area of a local authority, or if he supplies at least half the light, power or water consumed within such an area, or if he provides, within such an area, certain essential services.

Ottawa Agreements.—Act No. 8 ratifies certain trade agreements entered into at Ottawa between the Government of the Union on the one hand and the Governments of Great Britain and Northern Ireland, of Canada and of the Irish Free State respectively on the other hand. It also amends certain provisions of Act No. 36 of 1925 (the Customs Tariff Act) in order to clarify and amplify them, and substitutes a new tariff schedule for a schedule contained in that Act.

Currency and Exchange.—Before the Union abandoned the gold standard, many bonds and other instruments of debt stipulated that repayment of the debt would have to be made in gold or some other specified currency. After the depreciation of the Union currency as a result of the Union's abandonment of the gold standard, it was felt that it would in most cases be inequitable to compel the debtor to comply with the above-mentioned stipulation, as he would in that case have to repay

a sum of money which could buy considerably more than the sum which he received could buy. Act No. 9, therefore, provides that, in spite of any such stipulation as aforesaid, a debt may be repaid in notes of the Reserve Bank or current coin of an amount equal to the amount which the debtor undertook to pay in gold or in other specified Union currency. As the Act is made retrospective to December 28, 1932, it empowers a debtor who repaid any such debt as aforesaid between that date and the date of promulgation of the Act (March 8, 1933) to recover from the creditor so much as he paid in excess of what he would have been obliged to pay if the Act had been in operation at the time of payment.

The Act further reduces the gold cover of the Reserve Bank's notes from 40 per cent. to 30 per cent., makes such notes legal tender, empowers the said bank to buy and sell gold and non-Union bills or securities in order to prevent fluctuations in the value of Union currency as expressed in sterling, and provides that any loss suffered or profit made by the bank in such transactions, as a result of depreciation or appreciation of gold or bills or securities acquired by the bank, shall be borne by or accrue to the Treasury. Lastly, the Act repeals the temporary Finance Emergency Regulations Act, 1931, and re-enacts part of it in a permanent form.

Veterinary Act.—Act No. 16, which was introduced by a private member but which passed through Parliament with the approval and assistance of the Minister of Agriculture, places the veterinary profession upon a proper legal footing similar to that of medical practitioners and dentists.

It establishes a Veterinary Board which is to advise on and assist in the administration of the Act, provides for the appointment of a registrar of veterinarians, who is to keep a register of all veterinary surgeons recognized as such under the Act, prescribes the various qualifications for registration of veterinarians, provides for the removal of names from the register of veterinarians and for the inquiry, by the Veterinary Board, into improper conduct of a registered veterinarian, provides for disciplinary action against veterinarians as a result of such an inquiry, debars any person who is not registered as a veterinarian or as a medical practitioner from recovering any fees for any veterinary advice or attendance and prescribes penalties for any person who, not being registered as a veterinarian under the Act, holds himself out as a veterinary surgeon.

Constitution.—The South Africa Act provides for the appointment of only eleven Ministers of State. Therefore, whenever a Minister was on account of absence abroad or illness unable to perform his duties as such, no person other than one of his colleagues could act in his stead. Act No. 17 alters this position and empowers the Governor-General to appoint any member of the Executive Council as an acting Minister in addition to the eleven permanent Ministers.

Although a justice of the peace draws no salary, yet he can in certain circumstances draw fees for work which he performs in his capacity of justice of the peace. This makes his office an office of profit under the Crown within the meaning of s. 53 of the South Africa Act and debars him from " being chosen or of sitting as a senator or as a member of the House of Assembly." The Act under consideration now exempts justices of the peace from this undesirable disqualification, and as several justices of the peace have in the past been elected and sat as members of Parliament without knowing that they were ineligible, this exemption is given retrospective effect to the date of commencement of the Justices of the Peace and Oaths Act, 1914, *i.e.* August 1, 1914.

Agricultural Pests.—There is an exotic beetle called *cactoblastis cactorum* which is said to destroy the noxious jointed cactus plant. But unfortunately this beetle also destroys the cultivated spineless cactus. The Government has introduced this beetle into the Union to assist in coping with the jointed cactus menace in the Eastern Cape Province, but as it may also do damage to spineless cactus plantations, Act No. 18 was passed to indemnify the Government against any liability for such damage.

Immigration.—Act No. 19 repeals two unnecessary sections of the Natal Law No. 25 of 1894, which relate to marriage between Indians, and two Cape Acts dealing with the prohibition of Chinese immigration, which have become obsolete since the passage of the Immigrants Regulation Act, 1913, and to which the representatives of the Chinese Government in the Union have taken strong exception. The Act under consideration also repeals a clause in Act No. 22 of 1913 which provided that agricultural labourers, domestic servants, skilled artisans, mechanics, workmen or miners who comply with certain conditions shall not be classed as prohibited immigrants, thus enabling such persons to enter the Union as a matter of right, although their entry may be highly undesirable either for personal or economic reasons. The repeal of the said clause places the classes of persons referred to on the same footing under the immigration law as clerks, professional persons, merchants or any other class of immigrants.

Union and Southern Rhodesia Death Duties.—The object of Act No. 22 is to give effect to an agreement entered into between the Government of the Union and the Government of Southern Rhodesia to exempt executors or beneficiaries in an estate from the obligation to pay death duties on the same assets in both the Union and Southern Rhodesia.

It exempts from death duties in the Union various assets in an estate which are liable to such duties in Southern Rhodesia and which were formerly also liable to duties in the Union under the Death Duties Act, 1922. But Act No. 22 of 1933 is to be brought into operation by Governor-General's proclamation only when like legislation has been passed by the Parliament of Southern Rhodesia and has received the King's assent.

Co-operative Societies.—Act No. 23 exempts a member of a co-operative agricultural society, who became a member thereof after the commencement of the Act, from liability for certain obligations incurred by the society before he became a member. The Act further contains elaborate provisions to secure a claim which a co-operative agricultural society or company may have against one of its members in respect of seeds, fertilizers or bags supplied on credit by the society or company to such member, and the Act also confers upon such society or company extensive powers of control over such member in his disposal or use of any such seeds, fertilizers or bags.

Gambling.—In some of the larger towns of the Union gambling by means of games of chance has greatly increased of recent years, to the serious detriment of many persons in receipt of small incomes, and of their dependents. Prosecutions of those conducting the establishments where the gambling took place usually failed because it could be proved in defence to a charge under the gaming laws that the establishment was a club or a private house. Act No. 26 in one short clause in effect merely provides that the fact that the premises where the gaming took place was

a club or was partly owned by, or let to, the accused person shall no longer be defence to such a charge.

Provincial Taxation Powers.—Act No. 27 contains an authoritative interpretation of those provisions of the Financial Relations Act, 1913, which empower a provincial council to impose a provincial income-tax based upon the Union income-tax for which the taxpayer concerned had previously been assessed, by declaring that the said provisions include the power to impose a tax based on Union super-tax payable by the person taxed by the provincial council, and it thus removes a doubt which had arisen as to whether the provincial council was entitled to base its tax on Union super-tax. The Act makes this interpretation applicable to several specified taxing ordinances already passed by the four provinces.

Customs Tariff and Excise Duties.—Act No. 28 amends in numerous particulars the existing tariff of customs duty payable under Act No. 36 of 1925 on the importation of goods into the Union. It also imposes an excise duty on cigarette tobacco (an expression which includes finished cigarettes) manufactured in the Union and a surtax (in addition to the existing customs duty) on cigarette tobacco imported into the Union for consumption therein. In order to ensure the payment of these duties the Act provides that cigarette tobacco may not be removed from the manufacturer's premises, or sold, except in unbroken containers of a prescribed size, and contains various other clauses to facilitate the enforcement of its fiscal provisions.

Financial Adjustments.—This annually recurring Act (No. 29) deals with a number of widely different subjects, of which only a few are of general interest. S. 1 of the Act amends the Registration of Businesses Act, 1909, of the Transvaal by removing its administration from the purview of the Registrar of Companies, thereby effecting a considerable saving in unnecessary expense.

In s. 2 the Act amends s. 56 of the South Africa Act by reducing the daily deduction from the salary of a member of Parliament for non-attendance of a sitting of the House to which he belongs from £6 to £3.

In s. 3 it interpolates a new section into the Public Health Act, 1919. This new section, which was designed as a measure of economy, limits to a maximum of £10,000 per annum the refund to be paid under the last-mentioned Act from State funds to a local authority in respect of certain expenditure incurred by it in connexion with matters relating to public health.

Act No. 33 of 1922 provides that any revenue derived by the Union Government from properties in the Union transferred to that Government by the Imperial Government shall be paid into a separate fund (the Defence Endowment Fund) and applied to the construction or repair of certain defence works. As the sums expended by the Union Government on such works far exceed the aforesaid revenue, the keeping of a separate defence endowment account resulted in unnecessary administrative work. S. 4 of Act No. 29 of 1933 therefore provides that the revenue derived from the sale or lease of the above-mentioned properties shall be paid into the Consolidated Revenue Fund of the Union but shall nevertheless be earmarked for the construction of permanent defence works and buildings.

S. 5 of the Act contains several additions to the Farmers' Special Relief Act, 1931, in order to make it more effective and beneficial.

S. 6 amends the Export Subsidies Act, 1931, mainly by empowering

the Minister of Finance to pay, on the export of wool or mohair, a subsidy of a fixed sum, not exceeding one penny per pound, in lieu of a sum proportionate to the value of the article exported, as in the case of other farm produce.

The Act also contains many amendments of the Land Bank Act, which has been amended on numerous previous occasions.

Gold Mines Excess Profits Duty.—Act No. 33 provides for an elaborate and complicated method of recovering from gold producers a share of the increased profit which they made as a result of the increase of the price of gold after the Union abandoned the gold standard. The Government intended to recover by this means an additional tax amounting to not more than £6,000,000 from the gold mines during 1933, but as the amount which this new tax would yield could not be calculated exactly beforehand, the Act provides for a refund to every person who paid the tax of a proportionate share of the amount collected in excess of £6,000,000.

Farm Mortgage Interest.—As a result of the world-wide depression and a prolonged drought which converted many flourishing areas of the Union into a desert, most farmers were unable to pay the interest due on their mortgage bonds. Act No. 34 was passed to grant them some relief in this respect. Its provisions are most involved and artificial, but in effect they reduce any interest on a farm mortgage (which generally amounts to from 6 to 8 per cent. per annum) to 5 per cent. per annum and empowers the Government to pay 1½ per cent. of those 5 per cent. from public funds, so that the farmers only have to pay interest at the rate of 3½ per cent. per annum on their mortgage bonds, irrespective of the rate of interest stipulated in those bonds.

2. CAPE OF GOOD HOPE.

[It is hoped to publish this Summary in the next *Review*.]

3. NATAL.

[*Contributed by the* Hon. Mr. Justice Lansdown.]

Thirteen Ordinances were passed by the Provincial Council of Natal during the calendar year 1933, of which three were appropriation measures.

Pension Benefits.—Ordinance No. 13 provides for certain pension and allied benefits to the several persons named therein.

Public Health.—Ordinance No. 3 further amends the Health Committee Ordinance of 1930, firstly by providing means for the due and proper care of any commonage within the area of jurisdiction of a health committee, and secondly by enacting that no transfer or cession of immoveable property situated within the area of jurisdiction of a health committee shall be passed until the rates thereon have been paid.

Local Government.—The remaining eight Ordinances are concerned with local government in the towns of Durban, Greytown, Glencoe, Dundee, Port Shepstone and Harding. By Ordinances 5, 6, 7, 8, 9 and 10 additional borrowing powers are conferred respectively upon the councils or boards of the borough of Durban, the borough of Greytown, the township of Glencoe, the borough of Dundee, the township of Port Shep-

stone and the township of Harding. By Ordinance No. 4 the ownership, control and management of the roads and road reserves within the area included within the borough of Durban by the Durban Extension and Loan Ordinance No. 31 are vested in the town council of that borough, and by Ordinance No. 12 the powers of that body are extended in various directions. These enlarged powers include authority for the extension until an hour not later than 3 a.m. of the open hours of restaurants, refreshment and tea rooms.

4. ORANGE FREE STATE.

[*Contributed by* H. PRING, ESQ.]

Ordinances passed—14.

Motor Vehicles.—S. 4 (2) of the Motor Vehicle Ordinance No. 18 of 1931 provides that if any owner fails to renew his licence within a period of six months from the date of expiry thereof the registration shall be *ispo facto* cancelled—a new registration being necessary before a licence can be taken out. Ordinance No. 3 provides that the new registration fee in such cases shall be retained in the Provincial Revenue Fund, no payment in respect thereof being made to the local authority.

Ordinance No. 9,[1] styled the Motor Taxation Penalties Suspension Ordinance, grants a concession to motor owners whose vehicles are essential for the conduct of their businesses by authorizing the acceptance by registering officers of promissory notes or post-dated cheques in lieu of cash in respect of the annual motor licence fee. The concession was restricted to persons who (*a*) required the vehicles for the conduct of their businesses, and (*b*) were unable to meet the full licence liability.

Vermin Destruction.—Ordinance No. 4 defines more clearly the details to be entered in the register of each vermin hunt club.

Shop Hours and Half-holidays.—Ordinance No. 7 contains an amendment to the Shop Hours and Half-holiday Ordinance No. 6 of 1925. The object is to ensure that assistants employed in blacksmiths' businesses will be given at least one half-holiday in each week.

Road Traffic.—Ordinance No. 10 provides for the regulation of road traffic in certain respects and prescribes certain rules of the road. It is based on a draft drawn up by an inter-Provincial Committee in 1931.

Fish Preservation.—The provisions of Orange Free State Ordinance No. 9 of 1911 and Transvaal Ordinance No. 10 of 1921 form the basis of Ordinance No. 11. It provides for (*a*) close seasons, (*b*) prohibition of set or night lines, (*c*) prohibition of fishing on Sunday, (*d*) prevention of wilful destruction of fish, (*e*) prohibition of pollution of streams, and (*f*) generally for greater control in the protection of fish within the Province.

Hospitals.—Ordinance No. 13 consolidates and amends the law relating to the establishment, maintenance and management of public hospitals and kindred charitable institutions. Ordinances Nos. 8 of 1913, 4 of 1922, 5 of 1928, 11 of 1929, and 7 of 1930 are repealed.

Local Government.—Various amendments to the Local Government Consolidation Ordinance No. 11 of 1925 are contained in Ordinance No. 14. The amendments in the main confer additional powers on town councils.

[1] The Ordinance ceased to have effect on December 31, 1933.

5. TRANSVAAL.

[*Contributed by* G. Hartog, Esq.]

1932.

Ordinances passed—11.

Licences Control.—Ordinance No. 3 consolidates and amends the law relating to the control of the issue of certain trade and business licences, and in doing so repeals the previous Ordinances on the subject, viz. No. 12 of 1926, No. 10 of 1927 and No. 14 of 1930 (*q.v.*). Though passed in 1931, it was not assented to until a year later, and therefore appears for the first time in the 1932 Ordinances.

The licences covered by the Ordinance are licences issued to " general dealers " as defined in the Ordinance, but not to hawkers or pedlars.

New points are that : the duty is imposed by s. 10 upon the licensing authority in every area to frame a list of general dealers lawfully trading at the promulgation of this Ordinance, and to add thereto the name of every dealer subsequently certificated who has notified (as required by s. 11) when he has commenced to trade, with a description of his premises. As to new certificates the grounds formerly limiting the discretion of the licensing authority (see s. 6 of Ordinance No. 12 of 1926) have been repealed, and the discretion to grant or refuse a certificate is now unqualified, but every new application must be accompanied by a report (*a*) from a medical officer of health or medical practitioner as to the premises, and that he knows of no reasons on grounds of public health why the certificate should be refused, and (*b*) from the senior officer of police whether anything is known against the person who is to be in actual control of the business, which should be brought to its notice.

But where the Administrator is satisfied that an application has been refused solely on the ground that there are already a sufficient number of businesses of the class in respect of which the certificate is sought, he may issue a certificate.

Provision is made by s. 12 for the grant of a removal certificate upon change of premises subject to a report as above as to the suitability of the new premises. An appeal lies to the Administrator on refusal of such certificate, and he may issue such certificate if satisfied on the evidence of not less than two impartial medical practitioners that it has been refused without reasonable cause.

Pounds.—Ordinance No. 4 amends the principal law, No. 7 of 1913, in certain respects, of which the most important is that by s. 7 it is made a criminal offence to seize illegally or impound any stock, punishable by fine or imprisonment, and in addition thereto liability for damages, costs and charges arising out of such illegal act, plus a sum of double the amount of the pound fees paid for such animal.

Cemeteries.—Ordinance No. 8 makes provision for the establishment of cemetery authorities outside municipalities and for the control and regulation of such cemeteries.

Local Government.—Ordinance No. 11 amends the principal law (No. 11 of 1926) by, *inter alia*, empowering local authorities (*a*) to make grants of money to establish or maintain " operatic, orchestral and dramatic societies " ; (*b*) to establish, acquire and work stone, clay and gravel pits and sell the products thereof. By an amendment of s. 183 of the principal

law it also defines and adds to the powers of the Administrator when, under s. 9 (4), any two or more townships, villages or municipalities are united so as to form one municipality.

1933.

Ordinances passed—20.

Hospital Nurses' Pensions.—No. 3 amends the principal Ordinance No. 13 of 1919, s. 3, by making a medical certificate a condition of admission to the regular nursing staff on and after May 1, 1933.

Statutory Publications.—No. 4 gives the Administrator the discretion to publish in the Provincial *Gazette* only, any information required by law to be published in a newspaper only or in both Provincial *Gazette* and a newspaper, and in either case to draw attention to such publication in the *Gazette* by a concise notice in any newspaper.

Townships and Town Planning.—Nos. 6 and 11 amend the principal law, Ordinance No. 11 of 1931, in certain administrative details, and more particularly s. 4 of Ordinance No. 6, substitutes a new s. 37 dealing with the appointment, membership and powers of the joint committee appointed by two or more local authorities to prepare a joint town-planning scheme, and the costs thereof. S. 3 of Ordinance No. 11 empowers the Administrator on the Board's recommendation to approve a lay-out or division of land near a township into portions not exceeding fifteen and in doing so to dispense in proper cases with the formalities, etc., prescribed by Chapter III; and any such approved lay-out shall be deemed an extension of the township.

Charitable Institutions (Control).—No. 7 amends the principal law, Ordinance No. 5 of 1926, by adding to the Administrator's powers of making regulations, more particularly: (*a*) authorizing the advisory boards to set up local advisory committees, and prescribing their powers and duties; and (*b*) for making grants in aid to such boards from Provincial Revenue.

Local Authorities (Language).—No. 8 amends the principal law, Ordinance No. 15 of 1916, by extending its application to hospital boards, the Warmbaths Board of Trustees and to other public boards or bodies as defined in s. 2 of the amending Ordinance, and by providing for the use of both official languages in notices required to be published in the newspapers.

Roads.—No. 9, an Ordinance of 103 sections, consolidates and amends the law relating to public roads and outspans in this Province, and in doing so repeals (*a*) the principal law, Ordinance No. 5 of 1912, except ss. 45 to 49 and Schedule II thereof, which provide for trekking and grazing rights along public roads which are "trekkers' roads" as there defined, and (*b*) the following amending Ordinances, No. 8 of 1913, No. 3 of 1914, No. 10 of 1923, No. 13 of 1926 (Municipal Main Roads), No. 11 of 1927, No. 19 of 1927 (Roads Fund), No. 7 of 1928, No. 14 of 1928, No. 6 of 1930, No. 10 of 1931 and No. 15 of 1931 (*q.v.*).

Mineral Baths (Control and Management).—No. 10 consolidates and amends the law relating to the Control and Management of Public Resorts (Mineral Springs and Baths), and in doing so repeals Ordinances No. 5 of 1929, No. 7 of 1930 (Public Resorts), No. 9 of 1930 and No. 8 of 1931 (*q.v.*).

Companies Tax.—No. 12 consolidates and amends the law relating to the imposition of a tax on companies, and in doing so repeals Ordinances

No. 8 of 1923 (the principal Ordinance); No. 23 of 1925, No. 3 of 1927 and No. 7 of 1931 (*q.v.*).

Whippet Racing (Control).—No. 15 amends the principal law, Ordinance 3 of 1926, by altering the number of such meetings under any licence from two to one per week; the hours and days for such meetings; raises the age of admission thereto from 16 to 21 "if there is in operation in connexion with any such race a totalizator." It further provides that licence to use a totalizator must be obtained and that bookmakers are not permitted to operate at such race-meetings. The fee for a licence, which is an annual one, to hold a whippet or dog race is now definitely fixed at £15, amending s. 4 of the principal law.

Horse-racing and Betting.—No. 16 amends the principal law, Ordinance No. 9 of 1927, by empowering portions of race-courses to be set apart for the exclusive use of Asiatics, natives, coloured or European persons, and in that event reducing the charge for admission to the three first-mentioned classes.

Education.—No. 17 enables land which has been expropriated or reserved for school purposes under the principal law (Act No. 25 of 1907 (Transvaal)) to be disposed of as there provided if ten years have elapsed since the transfer of such land was registered and if the Administrator is satisfied after inquiry and reference to the Township's Board (constituted under the Townships and Town-planning Ordinance No. 11 of 1931) that the land is not likely to be required for such purposes—provided that the proceeds of sale or lease be paid to the Administrator for such services of a capital nature as he may approve for the benefit of the township or area in or near which the land is situate.

Licensing and Control of Dogs.—No. 18 consolidates and amends the law relating to the registration and control of dogs outside municipalities, and in so doing repeals the principal law, Act No. 23 of 1907 (Transvaal), Ordinance No. 7 of 1922 and Ordinance No. 20 of 1925.

Motor Vehicles.—No. 19 amends the principal law, Ordinance No. 17 of 1931, in certain respects, of which the more important are (1) an improved definition of "motor vehicle," a definition of "to operate" to mean "to use or drive or cause or permit to be used or driven, or permit to be, on any public road whether the person operating is present in person or not"; (2) exempting an owner from taking out a licence in the case of a motor vehicle incapable of being put to use, or dismantled so as to be unfit for use, by obtaining an exemption certificate to that effect (2*s.* 6*d.* fee for a motor-cycle, 5*s.* for any other motor vehicle); such exemption only to be granted on proof of unfitness for use before the date when liability to take out a licence arose, and to cease upon restoration of the vehicle; (3) preventing the licensing of any "public service motor omnibus," as there defined, from a date to be fixed and subject to regulations to be made by the Administrator, without proof of proper insurance against loss or damage which any person may sustain in connexion with such bus from any cause defined by regulation; (4) empowering the registering authority to cancel the registration of any motor vehicle which he shall determine is unsafe or unfit to be operated, or not properly equipped as required by law, or when the registered owner of a motor vehicle makes or permits any unlawful use to be made of any certificate or licence issued to him in respect thereof, but subject to an appeal to the Administrator against an order of cancellation; (5) requiring local authorities to pay licence fees in respect of their buses used or intended to be used for the carriage of

passengers and operated in public roads outside their area of jurisdiction ; (6) empowering local authorities to give effect to any traffic regulations or restrictions by " orders made by notices and signs posted in or placed on any road or portion thereof," such orders to be passed by resolution of the local authority but not required to be published in any manner other than by means of the said notices and signs.

Local Authorities' Rating.—No. 20 consolidates and amends the law relating to the levying of rates by local authorities, and in so doing repeals Ordinance No. 13 of 1928, which in itself was a consolidating Ordinance (*q.v.*).

The principal changes made in Ordinance No. 20 are the results of recommendations made by three successive commissions (known respectively as the Hartog, Young and Hofmeyr Commissions) on the rating of proclaimed land. There had been criticisms (1) by mining companies ever since site value rating was introduced by Ordinance No. 1 of 1916 (*a*) of the method of valuation and the rating of interests such as the owner's share of claim licences (see the definition of " freeholder's licence interest ") payable under the Gold Law in Reef municipalities ; and (*b*) of the rating of improvements situate upon land held under mining title for residential purposes or purposes not incidental to mining operations ; and (2) by power undertakings of the valuation and rating of land and interests in land held by them under surface right permits granted under the Gold Law for residential purposes, or as industrial stands, or for carrying their power lines and their water and compressed air pipes ; and of the inclusion of the latter (power lines, etc.) as rateable improvements at all.

The Hofmeyr Commission was able to bring about an agreement between the gold mines and power undertakings on the one hand, and the Reef municipalities on the other, and this agreement, embodying special treatment of these interests both as to method of valuation and rating, are incorporated as part of the Ordinance in ss. 4 (see the definitions there of " Reef municipalities," " power undertakings " and " improvements "), 8, 9, 10, 20, 21 and 22, for a period of ten years (s. 34). Other important changes made are (*a*) the limitation of the rating of " agricultural land " (s. 19) as there defined to one-eighth of its site value ; (*b*) in the method of valuation of surface rights under the Gold Law (s. 9 (5)) ; (*c*) the omission of the section (s. 28 of Ordinance No. 13 of 1928) which made any contract under which a lessor sought to pass on the liability for rates to his lessee null and void, a clause which had been part of the rating law since Ordinance No. 1 of 1916 ; (*d*) the appointment (by s. 13 (2)) of a lawyer of standing and experience (as there laid down) as president of the valuation courts of Pretoria and the Reef, and of any other municipality to which the Administrator may by proclamation apply this subsection ; and (*e*) the clarifying of the law as to the appointment and powers of valuers (s. 6), as to interim valuations (s. 16), as to service of notices (ss. 36 and 37), and generally.

6. NORTHERN RHODESIA.

[*Contributed by* ALAN ROE, ESQ., *Acting Solicitor-General.*]

During the year 1933, forty-four Ordinances were passed, of which thirty-one were amendments to the existing law. The principal enactments were as follows :

Administration of Justice.—The Criminal Procedure Code (No. 23), which is almost identical with that recently enacted in the East African

Territories, provides a complete code of criminal procedure for both the High Court and subordinate courts. For the most part the framework of the existing procedure is preserved in substance, but the opportunity has been taken to introduce certain new matters which were thought to be necessary, *e.g.* the substitution of life imprisonment for the death sentence in the case of a pregnant woman, and provision for the release of first offenders upon probation and for the stating of a case to the High Court by either party to the proceedings before a subordinate court. The amount of the fine which magistrates may impose is increased so as to bear a more proportionate relation to their powers of imprisonment. Under the code, subordinate courts of the first class (comprising courts of provincial commissioners and resident magistrates) may pass a sentence of two years' imprisonment or a fine of £100 without confirmation by the High Court. Subordinate courts of the second class (presided over by district commissioners) have a similar jurisdiction up to one year's imprisonment and a fine of £50, and subordinate courts of the third class (presided over by district officers not in charge of a district) have similar jurisdiction up to six months' imprisonment and a fine of £25.

The enactment of the Criminal Procedure Code necessitated so many amendments to the High Court Ordinance that the opportunity was taken to recast and re-enact that Ordinance in more up-to-date form. The provisions relating to legal practitioners are now consolidated in the High Court Ordinance (No. 18) and Rules of Court promulgated thereunder, and the Legal Practitioners Ordinance is repealed. Clause 13, which deals with divorce jurisdiction, provides for the Attorney-General to exercise the powers of the King's Proctor in England. Other provisions deal with the transfer of cases between courts, the form and manner in which oaths may be taken, the recording of evidence (including the taking of evidence by shorthand writing) and the establishment of district registries. The Subordinate Courts Ordinance (No. 36) deals in detail with the constitution of subordinate courts and their civil jurisdiction, their criminal jurisdiction being covered by the Criminal Procedure Code. Appeals in civil matters from subordinate courts of the third class to provincial commissioners' courts are preserved, while appeals from first and second class courts lie to the High Court. Civil appeals generally are dealt with in greater detail than formerly. The existing law had no provision whereby the practice of the English county courts and courts of summary jurisdiction could be followed where the local law is silent, and this want is remedied accordingly. In addition, provision is made for "composition orders," which correspond to proceedings in small bankruptcies in the county courts.

Juvenile Offenders.—Ordinance No. 41 provides for the holding of juvenile courts, the appointment of probation officers, the granting of bail and for preventing young offenders from associating at police stations with adults charged with offences. The court is empowered to discharge juveniles who have committed offences, other than homicide, and to place them for a stipulated period under the supervision of a probation officer. It is also provided that in certain circumstances the court may order a child to be taken out of the custody of its parents or guardians and committed to the care of some other fit person or institution.

Arbitration.—Ordinance No. 3 follows the lines of the Arbitration Act, 1889. The protocol on arbitration which was signed at Geneva on

September 24, 1923, is applied to the Territory by Part III of the Ordinance which enables a party to a submission to apply for a stay of court proceedings if the submission comes within the terms of the protocol. Part IV applies to provisions of the 1927 Geneva Convention on foreign arbitral awards.

Repatriation.—Ordinance No. 13 enables the Governor in Council to repatriate any person who, having been resident in the Territory for less than five years, is on account of his standard or habits of life deemed an undesirable inhabitant of the Territory, or is unemployed and for whom there is no prospect of employment. Provision is made for the payment of an allowance to a person so repatriated. Any person against whom a Repatriation Order has been made can appeal to the High Court on the ground that he does not come within the scope of the above provisions, and if the High Court decides in his favour it is provided that the Governor in Council shall revoke the order.

Emergency Tax.—Ordinance No. 15 provides for the imposition of a graduated poll-tax based on gross receipts which may reasonably be expected to accrue during the year 1933 to the person liable to pay the tax. The Ordinance expired on December 31, 1933.

Native Tax.—Ordinance No. 39 extends the provision for payment in grain or stock to " other produce," thus enabling commodities such as beeswax to be tendered in lieu of tax.

Police.—Ordinance No. 44 provides for the organization, discipline and duties of the Northern Rhodesia Police consequent on the separation of Civil Police Force from the military branch.

7. SOUTHERN RHODESIA.

[*Contributed by* R. J. Morton, Esq., *Solicitor-General.*]

The last session of the second Parliament was held during the year. Much of its time was devoted to discussion of the proposed purchase of the mineral rights by the Government from the British South Africa Company, the settlement of which did not necessitate immediate legislation. In view of the imminence of a general election, no new legislation which might have aroused controversy was introduced and most of the thirty-six public Acts passed dealt only with minor amendments to the existing law. The following is a summary of the new legislation :

Administration of Justice.—The interesting procedure known to Roman-Dutch law as " arrest to found jurisdiction " has been modified by No. 10. Where a defendant is domiciled outside the Colony and the court has otherwise jurisdiction, the invariable practice, if he is to be summoned by Edictal Citation, has been to attach either the person or property of the defendant within the Colony in order to confirm or strengthen the jurisdiction. This practice is, of course, beneficial to the plaintiff in the event of judgment being given in his favour, but it is not always necessary from a practical point of view and has, on occasion, caused considerable inconvenience, as when, for instance, to the mystification of the passengers, one of the coaches of a railway train which was on the point of departure from the Colony was, perhaps misguidedly, attached. Apparently it will still be necessary to pray for the attachment, but the court is now given an absolute discretion as to the granting of the prayer. The same Act also introduces a provision, familiar to the English county courts, that no

appeal shall lie from a decision of the High Court if the parties have previously lodged with the court an agreement that the decision shall be final.

Agriculture.—There are two Acts dealing with the tobacco industry. No. 6 extends to it the principle of the levy which has already been applied to several other primary products. The rate of the levy will be fixed annually, but is not to exceed one-tenth of a penny per pound; it is imposed on all unmanufactured tobacco grown in the Colony. Though the levy is collected by the Government, the proceeds will be handed over to a body representative of the growers for expenditure on approved methods of assistance to the industry.

No. 12 deals with the suppression of pests not only in cured tobacco but also in the growing plant. All premises used for storing tobacco must be licensed and are subjected to inspection and strict control. Drastic powers are given to Government inspectors for the inspection of crops and the destruction of any crops found to be infested with pests. One interesting provision is that within a fixed period after harvesting all tobacco plants and alternate hosts (*i.e.* other plants which might harbour tobacco pests) must be removed from the lands and destroyed; this is an essential measure of control, because "volunteer" tobacco is a source of danger not only to its owner but also to his neighbours.

Finance.—Income-tax still remains at 1*s.* in the pound, increasing by one two-hundredth of a penny for every pound by which the taxable amount exceeds £500, but an interesting innovation is the discrimination against income derived from gold mining. The maximum rate of tax on incomes derived from sources other than gold mining is 3*s.* 6*d.*, but the maximum rises to 4*s.* on incomes derived from gold mining. The principle that in times of depression a flourishing industry must bear extra taxation also finds expression in No. 19, which reimposes the tax of 15 per cent. on the gold premium.

No. 28 ratifies and gives effect to the trade agreements with Great Britain and Canada which were concluded at the Ottawa Conference and also to the new customs agreement with Northern Rhodesia. No. 31 gives effect to an agreement with the Union of South Africa for the prevention of the levying of death duties on the same assets by both countries.

Native Affairs.—In civil cases between natives the courts are directed, under the provisions of the Southern Rhodesia Order in Council, 1898, to be guided by native law in so far as that law is not repugnant to natural justice or morality or any statute law. The impact of European civilization has introduced into native life factors, such as monogamous marriage and the individual ownership of immoveable property, which were never contemplated by native law. Though polygamy is legally recognized, natives in increasing numbers are contracting monogamous marriages, but do not thereby escape from the trammels of the native law of inheritance, which does not allow a father to nominate for his minor children guardians other than those prescribed by native law. The result has been that children of Christian parents and brought up in civilized surroundings have, on the death of their father, reverted to the guardianship of pagan relatives living in remote areas. Further, the Land Apportionment Act (No. 30 of 1930) definitely provides for the individual ownership of land by natives, and it was therefore necessary to make provision for the devolution of such property by will; at the same time, in the interests of rural economy, it was desirable to prevent the splitting up of native farms into

small uneconomic holdings or their reversion to communal tenure, as there is ample land for communal tenure in the native reserves. The Native Wills Act (No. 13) therefore allows any native who has entered into a Christian or other civilized marriage to make provision by will for the guardianship of his children. In the event of no such provision having been made, any person interested in the children may make application to the Native Commissioner of his district, who may make such order for their guardianship as he may deem fit, subject to the usual rights of appeal. Natives are also given the right freely to dispose by will of the ownership of immoveable property; if the right is not exercised, the heir at native law is to succeed to the property in his individual capacity. These provisions are subject to the limitation that the Land Board, set up under Act No. 30 of 1930, must approve of the successor; if it does not approve, the Board sells the property to the best advantage to an approved native purchaser and hands over the proceeds to the successor. No provision in a native will for the guardianship of children or the devolution of immoveable property is valid unless the will has been registered with the Native Commissioner.

The object of No. 14 is to protect women from employing as domestic servants natives who are sexual perverts. Any native who has been convicted of a sexual offence is liable to have his registration certificate endorsed with the words "Refer to Native Commissioner before engaging for domestic service."

Miscellaneous.—Two Acts show that the Colony has confidence in its future. No. 9 is of trivial importance, but the fact that it gives to Ministers titles similar to those borne by the Ministers of Dominions perhaps indicates Southern Rhodesia's aspirations to a place at Imperial Conferences in the distant future. No. 34 is a Town-planning Act on similar lines to those of other countries in the Empire.

BRITISH EMPIRE.

VII. BRITISH INDIA.

[*Contributed by* Sir Lancelot Graham, K.C.I.E., *Barrister-at-Law.*]

During the year 1933 the number of measures passed by the Indian Legislature was 28, and this is a slight increase on the figure of the previous year. Again the year was one of very considerable legislative activity, the Assembly being summoned to Delhi at the beginning of the year for a session occupying nearly three months, to Simla during the late summer for a session of about six weeks and again to Delhi in the early winter for a further session of about six weeks. The Council of State was in session for shorter periods. The most important piece of legislation considered during the year was the measure to set up a Reserve Bank for India, but the report on this measure is excluded from this year's record because the Bill as passed by the Assembly was not laid on the table of the Council of State until the following year. It may, however, be recorded here that the Bill after being introduced in the Assembly was referred to a Joint Committee of both Houses of the Legislature and that it passed through all its stages in the Assembly before the end of the year. Legislation in the controversial regions of economics was again a prominent feature of the year, and was responsible for no less than 7 measures ; while the difficult subject of income-tax produced its customary crop of amending legislation bedded-out in two separate measures.

No occasion arose during the year for the use by the Governor-General or any of the provincial Governors of the powers of recommendation and certification under ss. 67B and 72E of the Government of India Act. With the Indian Congress still unrepresented in the Legislatures, government measures in all the Legislatures were assured of a fairly easy passage, provided that a reasonable amount of consideration was given to the opposition point of view in Select Committee. The legislation enacted in the previous year both in the Central and in the Provincial Legislatures for the purpose of dealing with the form of lawlessness described as civil disobedience proved adequate for the purpose.

1. ACTS OF THE INDIAN LEGISLATURE.

Industrial Protection.—Under this category 7 measures come to be included. Of these Act No. 4 extends for six months and Act No. 20 extends for a further six months the temporary protection originally given to the cotton textile industry by Act No. 17 of 1930. The protection to the industry has since been placed on a more lasting basis as the result of legislation in 1934 embodying the Indo-Japanese and the Indo-Lancashire agreements. Protection to home-grown wheat was originally granted in 1931 by Act No. 15 of that year and in the year under report a further extension for one year is given by Act No. 5. Act No. 6 extends

for a further period of one year the protection given to the Indian salt industry against the import of fine salt originally given by Act No. 14 of 1931. Act No. 13 is frankly an anti-dumping measure of an enabling and precautionary type, being described in the long title as an Act to provide for the imposition of additional duties of customs on imported goods for the purpose of safeguarding industries in British India. The main provision is to the effect that on being satisfied after such inquiry as he thinks necessary that goods, the produce or manufacture of any country outside India, are being sold in British India at such abnormally low prices that the existence of an industry established in British India is thereby endangered the Governor-General in Council may impose on any such goods a duty of customs in addition to any duty already imposed by any law of such amount as he considers necessary to safeguard the interest of the industry affected. The notification imposing the duty is required to be laid before both Chambers of the Legislatures and ceases to have effect unless approved by a resolution of each Chamber within a specified period. Act No. 28 deals with a difficult subject because it seeks to remove a distinction between one class of oil and another. In order to defeat the customs demand on kerosene, a light fuel-oil having also a certain illuminating capacity was being substituted for kerosene and was entering British India on the fuel-oil tariff at a price at which it could undersell both the imported and the locally produced kerosene. The effect of the Act is to tax fuel-oil having the prescribed illuminating power as an illuminant and not as a fuel-oil.

Protection of Labour.—Further legislation was undertaken in pursuance of the recommendation of the Royal Commission on Labour. Act No. 2 was enacted to prohibit the pledging of labour of children. An agreement for this purpose is declared void, and the parties to such an agreement render themselves liable to fine, as also does any person knowingly employing a child in furtherance of such an agreement. The practice sought to be discouraged by this legislation is the taking of advances by parents or guardians on agreements, written or oral, pledging the labour of their children. The Act exempts from the scope of the penal section agreements made without detriment to the child and not made in consideration of any benefit other than reasonable wages to be paid for the child's services and terminable at not more than a week's notice. Act No. 15 introduces into the Workmen's Compensation Act, 1923, a number of amendments on points mainly of detail which should make the original Act less rigid and more considerate of the interests of all parties. Act No. 16 extends the scope of the Land Acquisition Act, 1894, to the compulsory acquisition of land where it is needed for the housing of labour either by companies or by other employers.

Finance.—The Indian Finance Act, No. 7, presents no novel features. In accordance with the established practice it fixes for the year the salt duty, the postal rates and the rates of income-tax and super-tax. It also makes a few changes in the duties leviable under the Indian Tariff Act, 1894. Act No. 12 makes a single amendment of substance in the Indian Income-tax Act, 1922, which has the effect of rendering all foreign income of a resident in British India from whatever source derived liable to income-tax in British India whenever it is brought into British India. Previously foreign income was only taxed in British India if derived from business and brought into British India within three years of its being received. Act No. 18 is a more extensive measure of 28 sections making

detailed changes of considerable importance in the administration of the law of income-tax, but not coming within any single definable principle. It would be tedious and unilluminating to describe the amendments in detail and the student may be referred to the text of the original and the amending Acts.

Commerce.—Act No. 24 breaks new ground in the Indian Statute Book with the Indian Tea Control Act, the purpose of which is to provide for the control of the export of tea from India and further for the control of the extension of the cultivation of tea in British India. C. 1 constitutes the Indian Tea Licensing Committee from persons interested in the industry with power to operate the Act subject to the control of the Governor-General in Council. C. 2 provides for the imposition of control over the export of tea by subjecting the export to licences issued by or on behalf of the Committee. The total amount of export in the first year is fixed in the Act and for subsequent years it is to be fixed by the Governor-General in Council after consulting the Committee. The Committee fixes the quota of each tea estate and grants export licences accordingly. C. 3 provides for the control of the extension of new tea cultivation by the Committee, subject to an appeal to the local government.

Merchant Shipping.—Two extensive amendments of the Indian Merchant Shipping Act, 1923, were enacted. Act No. 11 amends widely the law relating to pilgrim ships proceeding to the Hedjaz. One of the most important sections is that which seeks to put an end to the annual scandal of the stranding of Indian pilgrims in Arabia by requiring that no pilgrim shall leave India without being in possession of a return ticket. Pilgrims are accustomed to feeding themselves on the ship, but the system led to very unsatisfactory results and the amendment requires the shipping companies to make adequate arrangements for feeding the pilgrims. Other detailed recommendations of the special Committee set up by Government to inquire into the arrangements in force for pilgrims proceeding to the Hedjaz from India receives effect in the later sections of the Act. Act No. 25 introduces into the Indian Merchant Shipping Act, 1923, provisions rendered necessary by the fact of the Government of India having been a signatory to two International Conventions: one for the safety of life at sea and the other for an international load-line.

Railways.—Act No. 19 gives power to railway administrations not already having that power to own and operate road and air services as subsidiary services to those now supplied by them. The amendment is rendered necessary by the increasing competition of road services conducted by private persons. A railway administration desirous of taking advantage of the Act is required to frame a scheme for submission to the Governor-General in Council, who may grant or refuse sanction or, having granted sanction, may, after giving six months' notice, withdraw his sanction.

Regulation of Medical Standards.—The purpose of Act No. 27 is stated to be "to constitute a Medical Council in India in order to establish a uniform minimum standard of higher qualifications in medicine for all provinces." A Council consisting of members partly nominated and partly elected is to be set up and is to be a body corporate by the name of the Medical Council of India. S. 11 provides that certain medical qualifications obtainable in British India shall be recognized for the

purposes of the Act. Additions may be made to the list by the Governor-General in Council after consulting the Council. S. 12 provides for the recognition of the medical qualifications granted by medical institutions outside British India. Ss. 13 and 14 provide for negotiations between the Indian Medical Council and corresponding authorities outside British India for the settling of a scheme of reciprocity for the recognition of medical qualifications. Maintenance of home standards is secured by s. 16, which makes provision for inspection of examinations held by medical institutions in British India for the purpose of granting recognized medical qualifications.

Protection of State Industry.—The purpose of Act No. 17 is to safeguard for the benefit of the Indian State Broadcasting Services the fees from licences for wireless apparatus which are issued under the Indian Telegraph Act, 1885. The measure penalizes mere possession without a licence of wireless apparatus and gives power to search on a warrant between the hours of sunrise and sunset.

Privilegium.—Under the description of an Act (No. 23) to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager a measure was passed conveying privileged status on the Nawab Bahadur of Murshidabad, generally described as the premier nobleman of Bengal. The object of the Act is to rescue the Nawab Bahadur from his financial embarrassments, to provide for their gradual liquidation and secure that they shall not recur. S. 3 enables the appointment of a Manager to be made and s. 4 provides that on the appointment of a Manager all proceedings pending against the Nawab Bahadur shall abate and during the management no fresh suits in respect of existing liabilities shall be filed, while the Nawab Bahadur shall have no powers of encumbering his property or of making any kind of alienation of the estate. The Manager is authorized to go into the claims of creditors and make a scheme for composition. In the course of his inquiries he is empowered to make orders, subject to appeal to the Chief Revenue Authority, setting aside or modifying the previous alienations of the Nawab Bahadur.

Supplementing Provincial Legislation.—Act No. 9 supplements the provisions of local legislation in Bengal, Bihar and Orissa, Bombay, the United Provinces and Punjab by conferring powers on the High Courts of the provinces concerned in connexion with the special emergency legislation enacted in those provinces. The measure was necessary because it is beyond the scope of the Provincial Legislatures under the Government of India Act to confer jurisdiction on, or take it away from, a Chartered High Court, that is to say, any one of the High Courts of Judicature for the time being established in British India by Letters Patent.

2. MADRAS.

Acts passed—25.

The majority of the Acts were short measures amending existing enactments "for certain purposes."

Irrigation.—Act No. 16 is an Act to provide for the levy of water-cess on lands irrigable from the Bhavani Reservoir, an irrigation project about to be undertaken by the Madras Government "in order to provide water to supplement rainfall for the irrigation of dry crops." The main purpose

of the measure is to secure the right of Government to charge permanent water-rate on lands from time to time irrigated in dry seasons whether such lands are actually irrigated or not with water from the Reservoir. In other words, the purpose of the Act is to make a protective work not altogether unproductive.

Religious Endowments.—Act No. 19 is declared to be for the administration and governance of the Tirumalai-Tirupati Devasthanams. This measure, which was strongly opposed by the orthodox Hindus, aims at securing the effective administration of a famous and wealthy religious foundation formerly sought to be controlled along with other religious foundations by the Madras Hindu Religious Endowments Act, 1926, which itself took the place of earlier post-reform legislation. S. 2 vests the administration of the endowment in a Committee of seven persons to be appointed by the local government. S. 36 prescribes the purposes for which the income of the endowment may be expended and s. 37 authorizes the Committee to utilize surplus funds for certain named purposes which include "the establishment of a university or college in which special provision is made for the study of Hindu religion, philosophy and *sastras* and for promoting the cultivation of Indian art and architecture."

Crops Regulation.—Act No. 20 is an Act to provide for the better regulation of buying and selling of commercial crops and the establishment of markets for commercial crops.

Inheritance.—Act No. 21 is an Act to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate succession and partition applicable to Nambudri Brahmans and certain other communities not governed by the Marumakkattayam law of inheritance. Act No. 22 is an Act to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the Marumakkattayam law of inheritance. These last two enactments represent a serious attempt to begin the codification of Hindu law.

3. BOMBAY.

Acts passed—22.

Sale of Tobacco.—Act No. 2 is an Act for the imposition and levy of fees on the sale of tobacco and is yet another attempt to tap a new source of revenue. S. 6 prohibits the sale of tobacco without a licence, which may be obtained on payment of the prescribed fee.

Local Government.—Act No. 6 repeals and re-enacts in amended form the Bombay Village Panchayats Act, 1920. The purpose of the legislation is to foster the development of local self-government in the villages by setting up local elected bodies with defined administrative powers and duties, with carefully limited civil and criminal jurisdiction and with authority to levy specified taxes to meet the needs of the bodies concerned for the discharge of their duties.

Bombay Development.—Act No. 13 is an Act further to amend the City of Bombay Municipal Act, 1888, with a view to transferring the powers and duties of the Trustees for the Improvement of the city of Bombay to, and to vest the property and rights vested in the said Trustees in, the Municipal Corporation of the city of Bombay on the dissolution of the Board of the said Trustees. This marks a further stage in the development of the city of Bombay. The bulk of the work, which was entrusted to

the statutory Improvement Trust, having been executed, the Trust has been dissolved and the developed lands have been vested in the Corporation. Further development of the city is now made the special duty of a Committee of the Corporation to be called the Improvements Committee with a separate Executive Officer.

Municipal Government.—Act No. 17 is an Act to consolidate and amend the law relating to the municipal government of the city of Karachi, which has long outgrown the framework of the Bombay District Municipal Act, 1901, within which up to the time of the passing of its new Charter it was confined. The constitution, powers, duties and responsibilities of the local authority for this important city in the main reproduce, with improvements suggested by experience, the features of the City of Rangoon Municipal Act, 1922, and a secondary source of supply has been the Bombay Municipal Boroughs Act, 1925.

Live Stock Improvement.—Act No. 22 is an Act to provide for the improvement of live stock and has certain provisions which may well have a far-reaching effect. The central provision is contained in s. 5, by which it is enacted that no person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under the Act.

4. BENGAL.

Eleven measures were passed by the Bengal Legislative Council as compared with the unusually high number of 24 in 1932. They do not readily classify themselves.

Immoral Traffic.—Act No. 6 was a private member's Bill for the suppression of immoral traffic in Bengal. S. 4 makes a frontal attack on brothels and penalizes keeping or managing or acting or assisting in the management of a brothel as well as being the tenant, lessee, occupier or person in charge of premises who knowingly permits them to be used as a brothel. Brothel is defined earlier in the Act. The lessor or landlord who lets the premises with the knowledge that they will be used as a brothel is liable to be punished and s. 7 penalizes soliciting and s. 8 makes punishable the living by any person over eighteen years of age on the earnings of a prostitute. Punishments are also provided for other offences in connexion with brothels. The police are empowered by s. 13 to rescue minor girls from brothels and arrangements for orders for suitable custody to be made in a juvenile court are provided by s. 14.

Moneylending.—Another private member's Bill became Act No. 7, an Act to provide more effectual control of moneylending in Bengal. Loans on which interest is charged above certain rates are to be presumed to come within the scope of the Usurious Loans Act, 1918. The amount of interest which can be decreed is limited, following the Hindu law of *dam dupat* to the amount of the principal, and 10 per cent. is fixed as the maximum rate of interest for new loans. Other provisions relate to the supply of particulars of his loan to the debtor and to the deposit in court by the debtor of money due to a moneylender.

Places of Public Amusement.—Act No. 10 was enacted to provide for the better control of certain places of public amusement and for the prevention of gambling in such places. It is primarily aimed at "carnivals, circuses and amusement parks." The circus is an old institution in India but carnivals and amusement parks are new; and lest the courts

should be tempted to have their own ideas of what constitutes a carnival or an amusement park for the purposes of the Act, it is provided by s. 3 that Government by notification may declare any places or classes of places of public amusement to be " notified places of public amusement " for the purposes of the Act. The ensuing sections provide for adequate control over notified places of public amusement.

Local Government.—Act No. 11 introduces a number of amendments into the Calcutta Municipal Act, 1923. One of these is designed to prevent in future the employment in the municipal services of political convicts, that is to say, of persons convicted of offences against the State ; and another has for its purpose, by introducing the system known in local government circles in England as that of disallowances and surcharges, to give more effective control to Government where the municipal authority is found by the auditors to be at fault.

5. UNITED PROVINCES.

The number of Acts passed in the United Provinces Legislative Council was 9. Of these 8 were government measures effecting amendments of no public substance in existing legislation and one was a private member's measure, being an Act to make provision for the suppression of brothels and traffic in women.

6. PUNJAB.

Acts passed—4.

Wild Birds and Animals Protection.—Act No. 2 is an Act to make better provision for the protection and preservation of certain wild birds and wild animals in the Punjab. It repeals in its application to the Punjab an Act of the Central Legislature entitled the Wild Birds and Animals Protection Act, 1912. The main features are a system of licences and close seasons, and provision is made for declaring sanctuaries.

7. BURMA.

Acts passed—7.

All these measures effected amendments in local laws and do not call for any detailed description.

8. BIHAR AND ORISSA.

The Bihar and Orissa Legislative Council has only one measure to its credit in the year 1933 and this is the Bihar and Orissa Public Safety Act, 1933. Like the similar enactments passed in other Provincial Councils in 1932, the measure confers on the local government and its officers special powers for the purpose of maintaining law and order. The provisions are drawn from those of the Emergency Ordinances which were operated with success against the civil disobedience movement in its earlier stages and subsequently became the model for regular legislation in the legislature.

9. ASSAM.

Acts passed—4.

Opium.—Act No. 1 amends the Opium Act, 1878, a central enactment, in its application to Assam, while the remaining three Acts amended local laws.

10. CENTRAL PROVINCES.

Acts passed—12.

Most of these were brief measures making small amendments in local laws.

Agricultural Debts.—Act No. 2 is an Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness. The method employed is, as the title suggests, one of voluntary settlement and no proceeding can be forced on either a debtor or a creditor ; but certain inducements are held out to creditors, such as the right to summary recovery of claims settled under the conciliation proceedings and the refusal of costs where a creditor gets a regular decree of a civil court having previously been certified as having refused what the Conciliation Board considered to be a good offer on the part of the debtor, and finally the postponement of execution of decrees obtained by creditors having refused good offers of composition until all debts settled in conciliation proceedings have been paid off.

Right of User.—Act No. 8 is an Act to define the right of user over public places by all persons of whatever caste or creed. It is enacted (probably with doubtful necessity) that no public place—which expression is extensively described by an inclusive definition—shall be closed to the use of any person by reason only of his caste or creed.

Local Audit.—Act No. 9 is an Act to make better provision for, and to regulate the audit of, the local funds under the management or control of certain local bodies.

State Aid to Industries.—Act No. 12 is an Act to regulate the grant of State aid to industries. A Board of Industries is constituted with power to deal with applications for State aid, and the objects for which State aid may be granted by the Board are defined. State aid is to be given in the form of loan or guarantee of cash credit, overdraft or fixed advance to bank, or guarantee of a minimum return on the whole or part of the capital of a joint stock company for a limited period or the grant on favourable terms of raw materials, or the services of experts or, finally, the payment of a subsidy for the conduct of research or the purchase of machinery.

11. COORG.

Acts passed—3.

Plant Protection.—Act No. 2 is an Act to make provision for the prevention of the spread of insect pests, plant diseases, and noxious weeds. The main target of attack in this planting area is the coffee borer beetle, and the new legislation on this subject takes the place of the Madras Agricultural Pests and Diseases Act, 1919, which up to the time of the passing of this Act was in force in Coorg as an Act especially extended to that territory by notification under the Scheduled Districts Act, 1874. The procedure under the new law starts with a notification calling on owners to take certain action, and if they fail to take such action they render themselves liable to a penalty and in addition the necessary action is carried out at their expense by the inspecting officer.

12. NORTH-WEST FRONTIER PROVINCE.

In the second year of its existence the Legislative Council of the North-West Frontier Province passed two measures.

Municipal.—No. 1 amends a provision of the Punjab Municipal Act, 1911, in its application to the North-West Frontier Province.

Juvenile Smoking.—No. 2 (starting as a private member's Bill) penalizes the sale or giving of tobacco to any person apparently under the age of 16, and further empowers certain persons of public status to intervene and seize any tobacco being smoked in a public place by any person apparently under the age of 16. The operation of the latter portion of this measure in this reputedly turbulent province will be watched with interest.

13. ORDINANCES UNDER S. 72, GOVERNMENT OF INDIA ACT.

No Ordinances were made by the Governor-General in exercise of his powers under s. 72 of the Government of India Act.

14. REGULATIONS UNDER S. 71, GOVERNMENT OF INDIA ACT.

In exercise of the powers conferred on him by s. 71 of the Government of India Act, the Governor-General in Council with the assent of the Governor-General published six Regulations, of which four extended to Aden, one to the Angul District and one to the Sonthal Parganas. All these Regulations made small amendments in existing Regulations.

VIII. EASTERN COLONIES.

1. CEYLON.

Ordinances passed—38.

Chank Fisheries.—No. 6 gives power to the Governor, with the advice of the Minister of Health, to declare any place to be a chank fishery camp for the purpose of chank fishery and to prescribe the period of such fishery. The Executive Committee of Health may make regulations to be approved by the State Council and ratified by the Governor for preservation of order, prevention of accidents, fire and disease, regulation of water supply and sanitation, and for any other matter necessary for the proper administration of the camp. Any person guilty of or abetting a contravention of any regulation is guilty of an offence and liable to a fine not exceeding Rs. 100 on conviction by a police magistrate.

Rating.—No. 8 amends the Small Towns Sanitary Ordinance, 1892, by the insertion of a new section providing for a proportionate remission of all rates and taxes in respect of a building rendered untenantable or remaining untenanted for each month of the year during non-tenancy, no remission being made for any broken period or part of any particular month. Notice in writing must be given to the Chairman of the Sanitary Board within seven days of the commencement of the period for which remission is claimed that the building is untenanted, the date of non-tenancy and the reason therefor, and also a written notice of reoccupation within seven days of the new tenancy.

No. 16 amends the Municipal Councils Ordinance, 1910, and provides for a proportionate remission of rates and taxes in cases of non-tenancy of a building other than one containing furniture. If a building containing furniture and registered with the Chairman of the Municipal Council as one to be let as a furnished building remains untenanted, a propor-

tionate remission of one-half of the rates and taxes may be allowed for such building during non-tenancy.

Tea.—No. 11, amended by No. 21, provides for the regulation and control of the export of tea from Ceylon by a system of quotas and licences, and for such purpose the Governor may appoint a Tea Export Controller, a deputy controller and such other officers as may be required, and a Tea Advisory Board consisting of the Tea Controller as chairman and not more than six other members, two of whom are to be representatives of smallholders. There is also to be established by the Governor a Board of Appeal, consisting of three members (one of whom at least shall be an advocate or proctor of the Supreme Court of not less than ten years' standing), to hear appeals against the decision of the Controller or Government Agent in respect to the registration of estates. Provision is made for the registration of estates and smallholdings and of their proprietors, and for the assessment of standard crops. The expenses of the administration are to be defrayed from the proceeds of an export duty on tea to be credited to a Tea Control Fund. Penalties are provided for breach of the Ordinance, obstruction of officers in the performance of their duties and for false statements in declarations or returns. The Ordinance is to remain in force for a period of five years reckoned from the appointed day.

Commissions of Inquiries.—No. 23 provides that persons affected by Commissions of Inquiries may be represented by advocates or proctors.

Sex Disqualification Removal.—By No. 25 a woman is no longer disqualified by reason only of her sex from becoming an advocate, proctor, notary, or commissioner for oaths.

2. HONG KONG.

[*Contributed by the* Hon. Mr. C. G. Alabaster, K.C., O.B.E., *Attorney-General.*]

Ordinances passed—30.

The thirty Ordinances passed during the year comprised two appropriation, one replacement, one incorporation, four consolidation, twenty amendment and two which were new to the Colony.

Civil Procedure.—The Code of Civil Procedure Ordinance, No. 3 of 1901, was affected by two amending Ordinances. Ordinance No. 1 adds a new section, 42B, to the Code corresponding with Order XI, rule 13, of the Supreme Court for England. S. 42A, which corresponds with rules 9 and 10 of that Order, was applicable only to service of process for foreign courts of countries with which no Civil Procedure Convention had been concluded. As the Conventions made between the United Kingdom and Austria, Belgium, Czechoslovakia, France, Germany, Norway and Sweden had been extended to the Colony and further Conventions with Esthonia, Italy, Portugal and Poland were about to be similarly extended, it became necessary to add the new section which is applicable to service of process for the courts of these countries. Ordinance No. 13 adds another new section, 427A, to the Code of Civil Procedure on the lines of s. 15 of the Bankruptcy and Deeds of Arrangement Act, 1913 (3 & 4 Geo. V, c. 34).

Consolidation Ordinances.—Ordinances No. 2 (Arms and Ammunition), No. 8 (Full Court), No. 10 (Volunteer) and No. 25 (Miscellaneous Licences) consolidate and to some extent amend the existing law on these subjects.

Criminal Procedure.—Ordinance No. 5 amends the Criminal Procedure Ordinance, No. 9 of 1899, by the introduction of additional sections, on the lines generally of ss. 3, 4, 5, 6, 7, 9, 11 and 14 of the Criminal Appeal Act, 1907 (7 Edw. VII, c. 23); but giving the Full Court power also to order a new trial.

Fortune Telling.—Ordinance No. 6 makes it a specific summary offence to pretend or profess to tell fortunes or to use any subtle craft, means or device by palmistry, divination, sortilege, astrology, phrenology, physiognomics, or otherwise to deceive and impose on anyone. A proviso, however, preserves and protects the special form of fortune telling practised by temple-keepers in temples registered under the Chinese Temples Ordinance, 1928, in accordance with the religious principles governing Miu, Tsz, Kun, To Yuen or Om in the worship of gods or communication with spirits.

Loan Redemption.—The replacement Ordinance was the Public Works Loan Redemption Ordinance (No. 15), which provides for the redemption of bonds, issued under the authority of the Public Works Loan Ordinance, 1927, which is repealed.

Relief for the Mercantile Marine.—One of the Ordinances new to the Colony is the Mercantile Marine Assistance Fund Ordinance (No. 24), which establishes a fund for services similar to those performed by like funds in the Straits Settlements and India, and in England by the Mercantile Marine Masters and Officers Relief Fund. It is financed by the revenue of the Colony and administered by a Committee.

Naval Volunteer Force.—The other new Ordinance is No. 30, which establishes a Hong Kong Naval Volunteer Force. It is based on a model prepared in England for enactments in Crown Colonies.

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—37.

Dentists', Medical Practitioners', and Pharmacists' Registration.—In the codification of the laws controlling professions most intimately connected with public health, Ordinances Nos. 15 and 16 (relating to medical practitioners and dentists) are amending enactments, while Ordinance No. 30 dealing with pharmacists is a new measure.

Ordinance No. 15 modifies the principal Ordinance No. 99 (Medical Registration) by requiring satisfactory evidence to be produced before any medical degree or qualification can be registered, and empowers the Medical Council to remove names from the Medical Register, or to make alterations in it, in cases not hitherto provided for (s. 18A).

Ordinance No. 202 (Dentists' Registration)[1] is amended by No. 16 in numerous respects, chief among which are the following: (i) As in England, dentists must hereafter take out annual practising certificates (s. 11), without which they will be unable to sue for their fees (s. 15); (ii) the consulting-rooms, and, generally, the conditions under which

[1] It will be remembered that, in the Revised Laws of Straits Settlements (1926 Edition), the Acts and Ordinances in force in the Colony up to 1925 (inclusive) are known by the new serial numbers assigned to each of them, followed by their subject in parentheses, thus—"Ordinance No. 101 (Courts)"; while those passed since 1926 have their respective serial numbers *for each year* as well as an alternative "short title."

dentistry is practised in the Colony, form the subject of minute regulation (ss. 11 and 14). Appeal lies to H.E. the Governor in Council when an annual practising certificate is either refused or cancelled on the ground of unfitness of the premises (s. 18); (iii) registered dentists are required to exhibit prominently at their consulting-rooms their certificate of registration (with their photograph attached); (iv) dentists not possessing certain academic qualifications are restricted as to the terms in which they describe their vocation (s. 21).

Finally, the third measure (Ordinance No. 30) aims at the control of chemists and pharmacists by means of a Pharmacy Board, correlative to the Medical Council and Dental Board (operating under the two above-mentioned Ordinances), and presided over by the Director of Medical and Health Service (ss. 3 and 4). All practising chemists and druggists have to be registered and, for that purpose, to prove qualifications recognized either by the Board or by the Pharmaceutical Society of Great Britain (ss. 6 and 7). Certificates of registration are renewable every year (s. 16), and are liable to cancellation by the Board (s. 17).

Divorce.—Ordinance No. 7 corrects an anomaly, which had been fraught with great hardship to the wife. Whereas under Ordinance No. 123 (Divorce), which applies where the spouses are domiciled in the Straits Settlements, the wife could not found her petition for divorce on the ground of adultery alone (unless aggravated by bigamy, cruelty, desertion or incest), yet under s. 1 of the Indian and Colonial Divorce Jurisdiction Act, 1926 (16 & 17 Geo. V, c. 40),[1] a wife who is a British subject, domiciled in England or Scotland, could obtain dissolution of her marriage on the ground of her husband's adultery, apart from any aggravating circumstance. The new Ordinance harmonizes the legislation by removing the prior restriction on the rights of the wife, thus placing her on the same legal footing, whether she is domiciled in the Colony or in England or Scotland.

Merchant Shipping.—Ordinance No. 8 implements the Government's obligations under the Geneva Labour Conventions of 1920, by forbidding the employment of: (i) children under the age of 14 years in sea-going ships (s. 32A); (ii) persons under 18 years of age—(*a*) as trimmers or stokers, (*b*) in any other capacity, unless duly certified as fit by a medical practitioner (s. 32B).

Ordinance No. 14 aims at removing the disadvantage under which British, in comparison with foreign, ships laboured as regards the number of officers and crew they were required to carry in proportion to their tonnage.

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—25.

Age of Majority.—The Contract Enactment of 1899[2] made the contracts of a minor void, but omitted to define the term "minor." The courts, however, imported into the States the age of majority, 21 years, obtaining in English law. The present Enactment (No. 9) differentiates between the adherents of Mohammedanism (which is the religion of the

[1] This Imperial Statute, passed, it will be recalled, in consequence of the decision in *Keyes* v. *Keyes and Gray*, (1921) L.R., p. 204, has been applied, subject to necessary modifications, to *the Straits Settlements* by Order in Council of October 1, 1931; to *Kenya*, by Order in Council of August 14, 1928; and to *Jamaica*, by Order in Council of June 10, 1932.

[2] Founded on the Indian Contract Act, No. IX of 1872.

rulers of the Malay States) and others, and fixes the age of 18 years as that of attainment of majority for the former, leaving it at 21 years for the rest. In form, the Enactment follows the Indian Majority Act, No. IX of 1875.

5. MAURITIUS.

[*Contributed by* M. DE COMARMOND, ESQ., *Acting Procureur-General.*]

Thirty-nine Ordinances were passed by the Council of Government and assented to by the Governor during the year 1933, of which the following may be specifically mentioned:

Free Emigration.—No. 12 removes restrictions (other than under the passport or police laws) on the emigration from Mauritius and its Dependencies of natives or residents in Mauritius and its Dependencies. A power to make regulations is reserved under the Ordinance to the Governor in Executive Council, so that adequate provision be made to ensure the protection of prospective or actual emigrants.

Posts and Telegraphs.—No. 13 brings up to date and consolidates the Post Office and Telegraph Laws of the Colony.

Identification of Illicit Rum.—No. 18 aims at combating traffic in rum which is prepared in contravention of the Distillery and Revenue Laws, by enacting that all rum containing more than a given proportion of furfuraldehyde shall be considered illicit rum. The principle thus adopted is based on the fact that furfuraldehyde is altogether absent (or practically so) from the produce of all the licensed distilleries of the Colony, the method employed ensuring its elimination from the distillate.

Imperial Preference.—No. 27 extends to all parts of the British Empire the preferential tariff of customs duties, in accordance with the principles adopted by the Ottawa conferences. Certain items of the schedule of tariffs are at the same time revised, as a consequence, to compensate short returns on the customs estimates.

Passports.—No. 33 provides that a passport shall henceforth be necessary for *leaving* as well as for entering the Colony.

Merchant Shipping.—No. 35 applies to ships registered in the Colony the "direct system" of giving helm orders, in accordance with the International Convention for Safety of Life at Sea.

General.—Other Ordinances were passed providing for: The suppression of houses of ill-repute (No. 5); long-term contracts (5 years) under the Labour Laws (No. 6); the opening of a government granary for the storage of grain directly on its importation, so as to render anti-plague measures more effective (No. 17); the levying of an export duty on silver in bullion or coin (No. 20); the continuing in effect of legislation concerning a levy on the salaries of civil servants (No. 24); the levying of an increased export duty on sugar, to secure more funds to be applied to the destruction of the pest the *Phytalus Smithi* (No. 38).

6. STATE OF NORTH BORNEO.

[*Contributed by* G. ROBERTSON, ESQ., *Legal Adviser.*]

Ordinances passed—6.

Emergency Powers.—Ordinance No. 1 empowers the Governor to take steps, in the event of an emergency, for the welfare of the State.

Sanitary Boards.—Ordinance No. 2 limits the liabilities of the Boards for loss or damage to goods deposited in the Boards' stores unless the

damage is caused by the negligence or misconduct of the Boards' servants. It also extends protection to the Boards' officers against certain actions.

Wild Animals Preservation.—Ordinance No. 3 provides protection for big game and other rare species of animals which cannot be classified as game and provides for the issue of licences to shoot, capture and keep such wild animals.

Prohibition of Forced Labour.—Ordinance No. 4 was passed to comply with Art. 25 of the International Convention concerning Forced or Compulsory Labour which was ratified by Great Britain on May 1, 1931. It prohibits forced labour except under exceptional circumstances which are provided for in the Village Administration Ordinance, 1913.

Inquiry Commissions.—Ordinance No. 5 provides for the appointment of Commissions to inquire into matters relating to the public welfare or affecting the good government of the State.

Manufacturing Jewellers Licensing.—Ordinance No. 6 by amending the definition of "jewellery" in the Manufacturing Jewellers (Licensing) Ordinance, 1917, extends the provision of that Ordinance to all dealers in gold, silver and precious metals and thereby facilitates police investigations in cases where jewellery and articles containing precious metals have been lost or stolen.

7. SEYCHELLES.

[It is hoped to publish this Summary in the next *Review*.]

IX. WEST AFRICA.

1. GAMBIA.

[*Contributed by* A. G. B. Manson, Esq., *Legal Adviser*.]

Ordinances passed—26.

Dangerous Drugs.—Ordinance No. 2 gives effect to the Convention signed at Geneva in July 1931 by providing for the extension of the Dangerous Drugs Ordinance to drugs capable of being converted into dangerous drugs.

Native Administration.—The Native Authority Ordinance, No. 3, sets up Native Authorities in the Protectorate with powers to make Orders governing a variety of matters for the well-being of natives in the area of the Authority.

Native Tribunals.—Ordinance No. 4 establishes a system of Native Tribunals in the Protectorate, presided over by native members only, and having jurisdiction only over natives. The extent of their jurisdiction is defined in the warrant establishing them.

Standard Time.—The Interpretation Ordinance, No. 10, establishes standard time for the Colony and Protectorate. Standard time means 60 minutes slow on Greenwich mean time.

Motor Traffic.—The Motor Traffic (International Convention, 1926) Ordinance, No. 8, gives effect to the International Convention relative to Motor Traffic signed at Paris on April 24, 1926, for facilitating the international circulation of motor vehicles and provides for the issue of international certificates and driving permits, making it unnecessary to obtain separate number plates for each country through which such vehicle travels.

Labour.—Ordinance No. 14 regulates the employment of women and children and young persons in certain industrial undertakings and employments, creates minimum wage fixing machinery and gives effect to various International Conventions relating to these matters.

Markets.—The Protectorate Markets Ordinance, No. 22, makes full provision for the establishment of markets in the Protectorate and confers powers on Native Authorities to make by-laws for their management and general supervision.

Criminal Law.—The Criminal Code, No. 25, establishes a code of criminal law, and the Criminal Procedure Code, No. 26, makes provision for the procedure to be followed in criminal cases.

2. GOLD COAST COLONY.

[*Contributed by* L. E. V. McCarthy, Esq., *Solicitor-General.*]

Ordinances passed—16.

Powers of Attorney.—Ordinance No. 7 enables instruments to be executed under a power of attorney in the name and, where sealing is required, with the seal of the donee of the power. It may be explained that the Conveyancing and Law Property Act, 1881, is not in force in the Colony.

Beer.—Ordinance No. 9 provides for the regulation and control of the manufacture of beer in the Colony and for the levying and collection of excise duty thereon. A somewhat elaborate system of control is introduced as the excise duty is chargeable upon the quantity and specific gravity of the works produced and not upon the quantity of beer manufactured.

Folded Woven Goods.—Ordinance No. 10 provides for the regulation of the importation and sale of folded woven goods, and was introduced to bring about uniformity with the law in the other West African Colonies.

(i) ASHANTI.

Ordinances passed—12.

Legal Practitioners.—Ordinance No. 2 is described in its long title as "an Ordinance to admit barristers and solicitors to practise in Ashanti, to regulate their practice and provide for other matters in connection with their practice." It follows closely the Gold Coast Colony Legal Practitioners Ordinance, 1931.

Several other Ordinances were enacted in order to make necessary adjustments of the statute book consequent upon the important decision to remove the ban against the appearance of barristers and solicitors in the courts of Ashanti.

(ii) NORTHERN TERRITORIES.

Ordinances passed—7.

Legal Practitioners.—The purpose of most of these Ordinances was to give effect to the decision to grant to barristers and solicitors the right of audience in the courts.

(iii) TOGOLAND UNDER BRITISH MANDATE.

Ordinances passed—3.

None of these Ordinances calls for special comment.

3. NIGERIA.

Ordinances passed—65.

Widows and Orphans Pensions.—Under the principal Ordinance, when an officer, who is a bachelor, retires, he is entitled to receive half his total contribution to the fund without interest and thereupon his potential rights under the scheme are terminated. In order to obviate any hardship which may be felt in the case of retrenched officers, ss. 3 and 4 of Ordinance No. 6 enable such officers who are not transferred to other service under the Crown and who are in receipt of a West African pension to continue to make contributions under the scheme and have the right to benefit.

Registration of United Kingdom Patents.—No. 10 provides that the Supreme Court shall not cancel the certificate of registration unless the invention has been manufactured, used or sold in Nigeria before the date of the application for the patent.

Labour.—Ordinance No. 12 applies to ships registered in Nigeria the provisions of the International Convention fixing the minimum wage for admission of children to employment at sea. The Ordinance is based on similar legislation in England and provides that, subject to certain exceptions, no child under the age of 14 shall be employed in a sea-going vessel which is registered in Nigeria under the Merchant Shipping Acts.

Anatomy.—No. 15 prescribes the cases in which human bodies may be dissected and ensures that such dissection under the provisions of the Ordinance shall not constitute a contravention of the Criminal Code. The Ordinance follows closely the provisions of the English Anatomy Act of 1832, and empowers the Director of Medical and Sanitary Service to grant a licence to practise anatomy to the superintendent of every school of anatomy.

Cinematographs.—No. 20 provides that cinematograph exhibitions shall not be given except in premises licensed for the purpose by a prescribed authority. The Ordinance also provides for the censorship of films and posters, and for this purpose constitutes a Board of Censors consisting of the Director of Education as President, and such other persons not exceeding ten in number as the Governor may appoint. The Board itself will appoint one or more Censorship Committees consisting of three of its members, and every film must be submitted to and passed by a Censorship Committee. There is a right of appeal from a Committee to the Board as a whole, with a quorum of five, but excluding any members of the Board on the Committee from whom the appeal is made.

Printing Presses.—Ordinance No. 21 requires any person who keeps a printing press to make a declaration before a magistrate, stating that he has such a press and specifying the place wherein it is kept. It also requires that the name and address of the printer and publisher shall appear on every book or paper printed or intended for publication.

Forced Labour.—No. 22 regulates the exaction of labour which is forced or compulsory labour within the meaning of the Convention adopted by the International Labour Conference at Geneva on June 28, 1930, and regulates the exaction of other kinds of labour. "Forced labour" is defined as "any work or service which is exacted from any person under the menace of any penalty and for which the said person

has not offered himself voluntarily." The Ordinance excepts from this definition (*a*) labour of convicted prisoners, (*b*) where native law and custom allows the exaction by a Native Authority in any village or town, not a township under the Townships Act, of labour for the maintenance of native buildings used for communal purposes, sanitary measures, maintenance and cleaning of local roads and paths, repair of town or village fences, digging and construction of wells, (*c*) the exaction of labour by the Governor in the event of war, famine or other specified calamities.

Tobacco and Cigarettes.—No. 23 provides for the imposition of excise duties on tobacco and cigarettes, and the control by licence of tobacco factories.

Native Administration.—The Native Authority Ordinance, No. 43, prescribes the powers and duties of Native Authorities, and sets out a number of matters with regard to which Native Authorities may issue executive orders. It also confers on Native Authorities the power of enacting subsidiary legislation in the form of rules; these rules, however, require the sanction of the Governor before they can come into operation.

Native Courts.—No. 44 provides for the better administration of justice and the constitution of native courts. Every native court shall have full jurisdiction and power to the extent set forth in its warrant and subject to the provisions of the Ordinance in all civil and criminal cases in which all the parties belong to a class of persons who have ordinarily been subject to the jurisdiction of native tribunals. The Governor may grade native courts and prescribe the jurisdiction and power of each grade. The Ordinance also provides that appeals from a native court shall go to a native court of appeal except in so far as the Governor may by an endorsement on the warrant constituting the native court direct that appeals shall go either to a Final Native Court of Appeal, or to the High Court or to the magistrate's court, but in cases where there is no native court of appeal and the Governor makes no such endorsement in the warrant appeals shall go to the district officers.

Protectorate Courts.—No. 45 provides for the establishment of a High Court consisting of the Chief Justice of the Supreme Court as its Chief Judge and of the Puisne Judges of the Supreme Court and other judges and assistant judges to be appointed by the Governor. It also provides for the division of the Protectorate into areas in each of which there shall be a Magistrate's Court, and for the appointment of magistrates, power being reserved to the Governor to invest a district officer with the powers of a magistrate for any area for which no magistrate is available. The Ordinance also defines the jurisdiction and powers of the courts.

Supreme Court.—Under the principal Ordinance, the Supreme Court exercised jurisdiction in the Colony, and in certain areas in the Protectorate, commonly known as "Supreme Court Areas," Ordinance No. 46 is directed to the abolition of that general jurisdiction of the Supreme Court in these areas; but the Court is, however, given jurisdiction throughout the Protectorate in matrimonial and probate matters and in matters arising under the Ordinances specified in the Schedule. The Ordinance also includes provisions with regard to the execution by the Supreme Court of process issuing from the High Court or the magistrate's courts in the Protectorate; such provisions are taken from the provincial courts Process Extension Ordinance, now repealed, with such amendments as are

necessary to adapt them to the changes in the judicial system. The Ordinance also abolishes the Full Court as a court of appeal from single judges of the Supreme Court, appeals from judgments of the Supreme Court now going to the West African Court of Appeal.

West African Court of Appeal.—Ordinance No. 47 provides, as regards civil appeals, that from the Supreme Court and the High Court there shall be a right of appeal to the West African Court of Appeal in cases in which the claim or value of the property in dispute is £50 or upwards. In regard to criminal cases the Ordinance gives a right of appeal against a conviction in the Supreme Court or the High Court, and gives that right of appeal on the same grounds as are open to a person who has been convicted on indictment in England and who desires to appeal to the English Court of Criminal Appeal. S. 22 of the Ordinance enables the Governor to refer any petition he may receive for the exercise of the prerogative of mercy from a person who has been convicted in a superior court to the West African Court of Appeal in order that that Court may hear and determine the case as in the case of an appeal by a person convicted, or for the purpose of obtaining the opinion of the Court on some particular point.

Criminal Procedure.—Ordinance No. 48 inserts a new Part IX relating to appeals in the Criminal Procedure Ordinance. The Ordinance gives a right to appeal to the Supreme Court against a conviction in the Colony by a Commissioner of the Supreme Court, and to the High Court against a conviction in a magistrate's court in the Protectorate. These appeals lie both on questions of fact and of law ; but leave to appeal will be necessary in cases in which the lower court has passed a sentence which does not exceed one month's imprisonment or a fine of £50. There is a further right of appeal on questions of law only to the West African Court of Appeal from the Supreme Court and High Court as courts of criminal appeal. There is also a right of appeal to the West African Court of Appeal against conviction by the Supreme Court or the High Court.

Inter-Tribal Boundaries Settlement.—Under Ordinance No. 49, a district officer with the consent of the Resident in charge of the Province may inquire into and decide any dispute as to inter-tribal boundaries, and for this purpose may sit with assessors. The Ordinance also provides for a review of the proceedings by the Resident, who may affirm, set aside or vary the District Officer's decision or may order a fresh inquiry. Similar powers are conferred on the Governor in regard to any action taken by a District Officer or a Resident under the Ordinance.

Legal Practitioners.—Ordinance No. 57 establishes, for the purpose of inquiring into allegations of misconduct, a Legal Practitioners Committee consisting of the Attorney-General and Solicitor-General *ex-officio*, and three unofficial members being legal practitioners nominated by the Nigeria Bar Association and who have been for at least ten years a member of one of the professions admitted to practise in the Supreme Court.

4. SIERRA LEONE.

[*Contributed by* I. J. Turbett, Esq., *Attorney-General.*]

In 1933, 33 Ordinances were enacted. Of these, 25 either amended or repealed existing measures, 2 dealt with supply and the remaining 6 dealt with matters which had not hitherto been the subject of legislation.

Railway Superfluous Lands.—Ordinance No. 12 empowers the Governor in Council to dispose of lands of the Sierra Leone Government Railway within the Colony which remain vested in His Majesty and have now become superfluous to the railway requirements.

Freetown Municipality Building Scheme.—Ordinance No. 17 creates a building scheme fund out of which the City Council of Freetown can make advances, upon good and sufficient security, for the improvement of buildings within the city. The fund may be utilized to advance money *inter alia* for: (*a*) the erection of new buildings; (*b*) the completion, extension or reconstruction of existing buildings and the repair or reconditioning of same; (*c*) painting and decorating; (*d*) the installation of electric light. Under the provisions of this measure such advances will bear a low rate of interest, will be free from the usual expenses of raising a loan and will be repayable on such terms as may be arranged between the City Council and the person on whose behalf the advance is made. The City Council is also empowered to insure any premises in respect of which advances are made at the ultimate expense of the owner. All moneys advanced will become a first charge on the premises concerned against all persons into whose hands they may come.

Midwives.—Ordinance No. 18 restricts the practice of midwifery in certain specified towns and places to qualified medical practitioners and to women possessing special qualifications in the science of midwifery who must be registered in accordance with the provisions of the Ordinance. Temporary provision has also been made for the enrolment on a special register, subject to the approval of the medical authorities, of unqualified midwives who have been engaged in the practice of midwifery for a certain period prior to the commencement of the Ordinance. A Midwives Board is also established to whom are entrusted examining, supervisory and disciplinary powers. The Board is also empowered to appoint supervisory authorities to whom have been assigned special functions. The provisions of the Ordinance are mostly based on similar provisions in the Imperial Midwives Acts, 1902 to 1926.

Fruit Export.—Ordinance No. 25 provides for government supervision of the packing of fruit intended for export and generally regulates the export of fruit from the Colony.

Change of Titles.—Ordinance No. 30 empowers the Governor in Council to change by Order the title of any government official or department, and authorizes the substitution of any such titles for the corresponding titles appearing in any enactments in force at the date of the Order.

Interpretation.—Ordinance No. 29 replaces the Interpretation Ordinance, 1924, and consolidates in one Ordinance all the various amendments which had been made to the repealed measure during the last decade. The opportunity was also taken to incorporate certain other new provisions which have been found to be of general utility in similar enactments of other Colonies.

Administration.—The Protectorate Ordinance, No. 32, repeals the Protectorate Ordinance, 1924, and the Protectorate Native Law Ordinance, 1924, and consolidates in one measure all the existing provisions of the above-mentioned Ordinances which are capable of enforcement at the present time, with the exception of certain local government provisions which have been now included in the Public Health (Protectorate) Ordinance, 1926.

X. EAST AFRICA.

1. KENYA.

[*Contributed by* ARTHUR LEWEY, ESQ., M.A., *Crown Counsel.*]

Ordinances passed—66.

The following is a summary of the more important enactments of general interest during the year 1933.

Trading in Unwrought Precious Metals.—Ordinance No. 2 was enacted for the purpose of enabling control to be exercised over dealings in gold and other precious metals, and is consequential to the mining legislation of the Colony.

Land and Agricultural Bank.—Ordinance No. 4 amends the Land and Agricultural Bank Ordinance, 1930, by providing that the Land Bank Board may be appointed to act as agents for Government in the administration of any advances to farmers or other persons. This amendment is made desirable by the need for economy and is designed to facilitate the transfer of the functions of the Agricultural Advances Board to the Land Bank. S. 4 of the Ordinance lays down a procedure which is intended to assist the work of the Land Bank in any cases where foreclosure becomes necessary.

Agricultural Advances.—Ordinance No. 5 abolishes the Agricultural Advances Board and substitutes therefor the Land Bank Board together with such other persons as the Governor may nominate, thus affording the Land Bank Board the assistance of those who have been identified in the past with the work of the Agricultural Advances Board.

Dangerous Petroleum Tax.—The Dangerous Petroleum Tax Ordinance (c. 54, Rev. Ed.) is amended by Ordinance No. 8 with the object of enabling repayment to be made of dangerous petroleum tax paid in respect of petroleum used by companies for propelling aircraft. The repayment relates to petroleum used in connexion with such portions of aircraft services as lie outside the boundaries of the Colony, and may be made to any company incorporated or registered under any law in force in the Colony and to any company wherever registered which carries on business in the Colony.

Tribal Police.—Ordinance No. 9 effects various minor amendments to the Tribal Police Ordinance, 1929. S. 17 lays down a procedure, designed to be both economical and effective, for enforcing law and order among the inhabitants of any area in the Colony. Power is given to the Governor to authorize a District Commissioner to increase the number of tribal police officers in an area where the misconduct of the inhabitants makes such a step advisable. Subject to an inquiry by a magistrate, the cost of the additional police may be charged to the inhabitants of the area in such proportion as the Governor may direct.

Marriage.—Ordinance No. 11 is an amending Ordinance which enables a minister of one denomination to celebrate marriages between persons in the Colony in a licensed place of worship of another denomination with the consent of the authorities of that denomination. This provision is designed to meet the cases of persons who are desirous of being married in accordance with their own faith but who reside in a district where there is no place of worship of their denomination.

Penal Code.—S. 27 of the Penal Code is amended by Ordinance No. 12, which seeks to remove certain doubts which have arisen as to sentences

of corporal punishment. Such punishment may be ordered in the case of young males who are convicted of offences for which a term of imprisonment may be imposed, but may not be inflicted in default of payment of a fine.

Industrial Employment.—Ordinance No. 14 gives effect in the Colony to certain Conventions relating to the Employment of Women, Young Persons and Children.

Juvenile Offenders.—The trial and punishment of young offenders is provided for by Ordinance No. 15,[1] which is designed to follow the recommendations of the Committee appointed by the Secretary of State to inquire into this question. The Ordinance is based on the Probation of Offenders Act, 1907, the Children Act, 1908, and the Home Office Report on the Treatment of Young Offenders.

Currency Loan.—Ordinance No. 16 is intended to safeguard the stability of the currency in terms of sterling by ensuring that the East African Currency Board will, if occasion arises, be able to provide funds for meeting further redemptions of currency. The Ordinance is therefore a precautionary measure and use will be made of it only so far, if at all, as the necessity arises.

Age of Majority.—Ordinance No. 17 repeals the Indian Majority Act, 1875, as applied to the Colony, and declares that the minority of Europeans shall cease and determine within the Colony at the age of 21 years. The Ordinance provides that every European of or arriving at that age shall be of the age of majority as fully, freely and effectually to all intents and purposes in the law as he may or might have been by the law of England. The provisions in the Ordinance relating to the age of majority for non-natives other than Europeans are practically the same as those contained in the applied Indian Act. The Ordinance does not apply to natives.

Shops in Rural Areas.—Ordinance No. 20 is designed to make provision for residential, commercial and industrial development on land leased from the Crown for grazing or agricultural purposes, and any change of user incidental to such development. The Ordinance permits the establishment of shops on farms either within an area of four miles of a municipality, township or trading centre or outside that area, upon payment of prescribed annual licence fees. The licensing officer, before issuing a licence, is to take the opinion of the District Council or Committee, if any, within whose area any proposed shop would be situated.

Expulsion from Proclaimed Areas.—In view of the anticipated development of mining activities in the Colony, it is considered most desirable, in the interests both of the miners and of the native population, that the administration should be equipped with the necessary powers to deal summarily and expeditiously with persons whose presence in mining areas is likely to lead to undesirable incidents. At the same time it is obviously advisable that, so far as is possible, such arbitrary powers should not be exercised without the consent of representatives of that section of the unofficial community which is interested in the development of the mining areas.

Ordinance No. 21 is intended to make the necessary statutory provision. The Governor may apply the Ordinance to any area and such area thereupon becomes a " proclaimed area." The Governor is further to appoint for every proclaimed area a Board which shall consist of the

[1] Since repealed and replaced by Ordinance No. 22 of 1934.

Provincial Commissioner of the Province in which the area is situated, and such other persons, not being connected with the public service of the Colony, as the Governor may appoint. Power is given to the Board to order any person whose presence in a proclaimed area is, after due consideration, deemed to be undesirable to remove himself from the area, and to remain out of the area so long as the order remains in force. Provision is made for an appeal to the Governor in Council against any such order of expulsion.

Mining in Proclaimed Areas.—The purpose of Ordinance No. 22 is to provide additional revenue in view of the increased expenditure which will be incurred in connexion with the development of the mineral resources of the Colony. The Ordinance provides that no exclusive prospecting licence shall be granted over land which is within an area to which the Governor has by Proclamation applied the Ordinance, unless the applicant for such licence has paid a fee based on a sliding scale according to the size of the prospecting area. This payment is to be additional to the registration and conveyancing fees payable under the Mining Ordinance. Provision is also made in the Ordinance for fees for alluvial prospecting licences in such proclaimed areas under the Ordinance.

Adoption of Children.—Ordinance No. 23 follows closely the provisions of the Adoption of Children Act, 1926.

Partnership.—Ordinance No. 26 declares the law of partnership in the Colony, and is based on the English Act of 1890.

Limited Partnerships.—Ordinance No. 27, which is in accordance with the provisions of the English Act of 1907, provides for limited partnerships in Kenya.

Companies.—The law in the Colony relating to companies is brought into line with the English legislation by the enactment of Ordinance No. 28.

Non-Native Poll-tax.—Ordinance No. 40 provides for the imposition on non-natives of a poll-tax at a rate graduated according to the taxpayer's income.

Licensing.—Provision is made by Ordinance No. 41 [1] for the licensing of certain trades, professions and occupations in the Colony and for the fees to be paid in respect thereof.

Registration of Titles.—Several amendments to the Registration of Titles Ordinance (c. 142, Rev. Ed.) are effected by Ordinance No. 52, more particularly as to fixtures which have been placed on land charged under that Ordinance, after the date of the charge. S. 2 of this amending Ordinance is designed to establish beyond any doubt the fact that such fixtures are included in the security of the chargee.

Bills of Exchange.—Ordinance No. 53 follows the amending legislation enacted in England in 1932 and makes applicable to banker's drafts certain sections of the Bills of Exchange Ordinance, 1927, which relate to crossed cheques.

Patents and Designs.—Ordinance No. 57 brings the legislation of the Colony as to the registration of designs into conformity with the most recent law on the subject. Effect is given in the Ordinance to various recommendations for the unification of commercial legislation in the East African Territories.

Ordinance No. 58 establishes the law in the Colony relating to the registration of Letters Patent in accordance with the provisions of the latest enactments.

[1] Since repealed and replaced by Ordinance No. 63 of 1934.

Architects and Quantity Surveyors.—Provision for the registration in the Colony of architects and quantity surveyors is made by Ordinance No. 60. S. 2 of the Ordinance prohibits any person from practising, after the expiration of six months from the date of the coming into operation of the Ordinance, under any name, title or style containing any of the words "architect," "architecture," "architectural," "quantity surveyor" or "quantity surveying" unless such person is registered. S. 4 establishes a Board of Registration and makes provision for its constitution, while s. 5 gives power to the Board to make by-laws.

Mining.—In view of the development of the economic resources of the Colony, Ordinance No. 61 is one of the most important enactments of the year. The Ordinance amends, rearranges and consolidates the law in the Colony relating to mining, with the object of making all mining activities subject to one Ordinance.

Game.—Ordinance No. 62 amends the Game Ordinance (c. 161, Rev. Ed.) in several respects, and particularly as to the types of licences available and the fees payable in respect thereof. Provision is made for the grant of permits for hunting animals for photographic purposes.

European Officers' Pensions.—Ordinance No. 65, which is an amending Ordinance, raises the normal age of retirement from 50 to 55 years for European officers appointed to the service of Kenya after December 31, 1933. S. 3 exempts from estate duty and fees the gratuity payable under the European Officers' Pensions Ordinance, 1927, to the legal representative of a deceased officer.

2. NYASALAND PROTECTORATE.

[*Contributed by* F. A. Moseley, Esq., *Attorney-General.*]

Native Authority.—Ordinance No. 13 provides a system of decentralization commensurate with the education of the native population by the establishment of native authorities. The activities of these authorities are, however, subject to close supervision by the Governor. Provision is made for the establishment of native treasuries. The Ordinance in most respects closely follows that in force in Tanganyika.

Native Courts.—Ordinance No. 14 may be described as complementary to the Native Authority Ordinance inasmuch as it is auxiliary to the other in the development of the system of indirect rule. These courts are set up by the warrant of a Provincial Commissioner under the authority of the Governor and exercise jurisdiction as defined by the warrant. Reports of all cases tried are submitted to the Provincial or District Commissioner, who have revisional powers and may at any stage transfer a case to a subordinate court. An appeal from a native court lies in the first instance to a native court of appeal, or to a District Commissioner, thence to the Provincial Commissioner and finally to the High Court.

Forced Labour.—Ordinance No. 15 replaces certain sections of the District Administration (Native) Ordinance, 1924, which dealt with this subject. Native authorities are given power in certain circumstances to order labour for the execution of public works, subject to the sanction of a District Commissioner. The latter, when specially authorized by the Governor, may order labour on certain specified classes of Government work. Provision is made for the strictest regulation of the conditions under which such work is performed.

3. TANGANYIKA TERRITORY.

[*Contributed by* L. D. SMITH, ESQ., *Acting Crown Counsel.*]

Ordinances enacted—34.

Twenty of the thirty-four Ordinances enacted during 1933 were amending ordinances effecting minor alterations in the law which experience had shown to be desirable.

Police and Prisons.—Of the remaining fourteen Ordinances the most important are the Police Ordinance (No. 23) and the Prisons Ordinance (No. 24) which make legal provision for the constitution and administration of the Police and Prison Services respectively as separate services. Under the law prior to this legislation the Prison Service was under the control of the Commissioner of Police.

Taxation.—Taxes are imposed by the following Ordinances: Sugar Consumption Tax Ordinance (No. 1), Salt Consumption Tax Ordinance (No. 6), Cotton Tax Ordinance (No. 12), Coffee Tax Ordinance (No. 14), Sisal-Hemp (Export Tax) Ordinance (No. 19); Tax on Imported Packages Ordinance (No. 20), and Companies (Tax on Nominal Capital) Ordinance (No. 33). The proceeds of the taxes imposed on cotton, coffee and sisal-hemp are to be used exclusively for the benefit of the cotton, coffee and sisal-hemp industries respectively.

4. UGANDA PROTECTORATE.

[*Contributed by* J. B. GRIFFIN, ESQ., *Acting Solicitor-General.*]

1932.

In the Uganda Protectorate thirty Ordinances were enacted during the year 1932. Those of principal interest or importance were the following:

Fugitive Criminals Surrender.—Ordinance No. 3 was enacted consequent upon the adherence by Uganda in 1931 to the International Agreement, 1904, and International Convention, 1910, for the suppression of the traffic in women and children. The amending Ordinance provides for the addition of ss. 113 and 114 of the Penal Code (procuration, and procuration by threats, fraud or administration of drugs, respectively) to the list of extraditable offences appearing in the Schedule to the principal Ordinance.

Carriage of Goods by Motor.—An Ordinance (No. 7) similar to Ordinances existing in Kenya and Tanganyika is the Carriage of Goods by Motor (Control) Ordinance. The object of this Ordinance is to afford a measure of protection to the railway by the prohibition of the transport of goods by motor vehicle in areas where, having regard to all circumstances, adequate railway facilities exist.

Native Produce Marketing.—Production of certain native products, as for example groundnuts, sim-sim, chillies and ghee, is sought to be encouraged and thereby increased by the enactment of the Native Produce Marketing Ordinance, No. 20. The Ordinance seeks to attain the objects in view by concentration, and other improvement, of marketing, by the insistence on attainment of specified standards of quality in produce, and by limitation, by licence, of the number and type of purchasers of produce.

Trade Marks.—Ordinance No. 21 divorces the law of trade marks from that of patents and designs with which it had been previously associated in one Ordinance. This new Uganda Ordinance is identical with the Ordinances on this subject in Kenya and Tanganyika, and consequently by its enactment uniformity in this important subject has been attained between these three territories.

Divorce.—Prior to the enactment of the Divorce (Amendment) Ordinance, No. 25, all jurisdiction in divorce was exclusively in the High Court. This limitation was found to operate unsatisfactorily in the case of natives resident at distances making resort to the High Court a matter of difficulty and expense. The amending Ordinance therefore reposes jurisdiction in divorce in First Class Subordinate Courts where all parties are natives and furthermore affords jurisdiction to these courts where all parties are not natives, but where a petition for damages for adultery only is lodged. The latter jurisdiction is anticipated to off-set any difficulty which may arise consequent upon the abolition of adultery as a criminal offence, an abolition which occurred with the replacement in 1930 of the Indian Penal Code (as applied to Uganda) by a Penal Code common in essentials to Kenya, Uganda and Tanganyika and based on English Criminal Law.

King's African Rifles.—Ordinance No. 30 replaces an Ordinance of similar title enacted in 1911. The new enactment, necessitated by the changes which have occurred since 1911 and by recent reorganization of the military forces, assimilates, in certain degree, Uganda legislation in this matter with that in force in England.

1933.

In the course of the year 1933 thirty Ordinances were enacted in Uganda, and the following are those of principal interest or importance:

Partnership.—Ordinance No. 19 is a comprehensive measure which is based on the English Act of 1890.

Bulk Sales.—Ordinance No. 21 introduces an enactment novel in East Africa. It is designed as a protection against fraud on creditors by sales of entire stock in trade prior to bankruptcy. The Uganda Ordinance, which is based on a similar Act of the Province of Alberta (Canada), demands notification to creditors before sale of stock in trade and a sale is made dependent on their consent, such consent being founded upon the opinion that a sale would be to their interest.

Non-Native Trading.—Legislation, also of a somewhat novel character, appears with the enactment of the Buganda Non-Native Trading Ordinance (No. 30). This Ordinance, which is limited in operation to one Province of the Protectorate, has for its object the elimination of unfair competition with traders in townships, who have to pay township rates and fees and be subject to restrictions, by those who, in trading just outside township boundaries, are free from such payments or restrictions. The object in view is sought to be attained by prohibiting within any scheduled area any trading by a native on behalf of a non-native.

Distress.—An Ordinance intituled the Distress for Rent (Bailiffs) Ordinance (No. 8) was enacted during 1933 at the instance of the Uganda Chamber of Commerce. This Ordinance is designed to facilitate collection of rents by enabling landlords to employ bailiffs to levy distress and, to this extent, the Ordinance follows the Law of Distress (Amendment) Acts, 1888 and 1895 (Imperial).

Poor Persons Defence.—A practice which has been in operation in Uganda for some years received legislative confirmation with the enactment of the Poor Persons (Defence for Murder) Ordinance (No. 7). Under this provision, a certificate issued by a judge, magistrate or registrar of the High Court ensures legal representation, where an advocate is available, in all cases where poor persons are charged with murder and reposes a discretion in the trial judge to fix the fee payable to an advocate conducting any such defence.

Liquor.—Legislation of a social nature enacted in 1933 is best represented by the Liquor (Amendment) Ordinance (No. 24). This enactment introduces into Uganda a principle which has been applied in England since the enactment of the Tippling Act in 1751. The Ordinance seeks to control the sale or supply of liquor on credit by providing that no action may be brought to recover the price of alcoholic liquor obtained for consumption on the premises where it is sold.

5. ZANZIBAR.

[*Contributed by* A. N. Doorly, Esq., *Attorney-General.*]

The following are the more important Decrees passed during the year 1933:

Trades Licensing.—No. 5 provides for the payment of licences by persons carrying on businesses of a banker, general trader, retail trader or commission agent.

Customs Tariff.—No. 6 amends the Schedules to the principal Decree and provides for the charging of alternative duties, specific or *ad valorem*, whichever may be the greater, on specified articles. The purpose of the amendment is the safeguarding of the revenue against loss due to depreciation of prices. Certain articles, namely, dates, certain kinds of dried fish and salt, articles commonly used as food-stuffs by the local population, have been added to the free list as a set-off to possible increases of prices in other directions.

Native Hut Tax.—The form of the Decree on the same subject passed last year was found to be inappropriate and a new Decree (No. 7) has been enacted. The alterations are, however, purely formal and no new principle is introduced.

Registration of Documents.—No. 19 provides for the admission of unregistered documents as evidence where the Courts of Equity in England would allow such admission. It also corrects a defect in the principal Decree whereby a receipt in full of the money due upon a mortgage, if endorsed on the mortgage deed, did not require registration. This provision of the law had the effect of rendering the records of the Registry of little value in ascertaining whether or not a particular property was incumbered.

Zanzibar Town Board.—No. 24 provides for the constitution, powers and duties of an advisory body to be called the Zanzibar Town Board to assist and to advise the Government in the administration of the Town of Zanzibar. For the present the Board is rather advisory than executive, as the time is not deemed ripe for the constitution of a board with full executive powers.

Transfer of Property.—No. 26 amends the principal Decree in order to provide for the compulsory registration of discharges of mortgages which have been made by registered instrument.

6. ANGLO-EGYPTIAN SUDAN.

[*Contributed by the* HON. ADVOCATE-GENERAL.]

There is little of general interest in the legislation enacted during the year 1933. The Ordinances passed numbered 6 and were all amendments of previous legislation.

Audit.—Ordinance No. 3 repeals and re-enacts with amendments the 1925 Ordinance.

Passports and Permits.—Ordinance No. 5 adds a new chapter to the 1922 Ordinance providing for permits for the engagement of labour.

XI. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by the* HON. HECTOR JOSEPHS, K.C., *Attorney-General.*]

There were forty-two public Ordinances passed during the year. The principal of these were :

Employment of Women and Young Persons and Children.—Ordinance No. 14 makes statutory provision for the carrying out of certain Conventions which have been adopted relating to the employment of women, young persons and children. The effect of the Ordinance is to restrict the employment of women, young persons and children in respect of certain forms of employment.

Pensions.—Ordinance No. 20 regulates pensions, gratuities and other allowances to be granted in respect of service in offices held by civil servants in this Colony.

Rice Factories.—Ordinance No. 25 makes provision for the regulation and control of rice factories and the manufacture of rice. The object of the Ordinance is two-fold, namely : (*a*) the regulation and control of rice factories and the manufacture of rice, and (*b*) the improvement of milling conditions in the rice industry and fixing standard weights for the sale and purchase of padi.

Persons desirous of operating rice factories are to obtain certificates from the authority controlling public health and sanitation that the premises are fit to be used as a rice factory ; on the issue of such certificate application is to be made to the district commissioner for a licence. The manufacture of rice without a licence is prohibited and any person who manufactures rice without a licence is liable to a penalty, for the first offence to a fine not exceeding $250, and for a second or subsequent offence to a like penalty or to imprisonment for a term not exceeding 3 months. The powers of a commissioner are set out, and a commissioner may refuse to issue a licence if the applicant has been convicted of an offence under the Ordinance. Where a commissioner has refused to issue a licence an appeal by way of petition may be made to the Governor in Council. Provision is made for the transfer of licences and for appeals from refusals of commissioners to consent to transfers. Every holder of a licence is required to keep books in which there are to be recorded the quantity of padi received into a factory ; the name and address of every person from whom padi has been purchased and the quantity purchased ; the name and address of every person from whom there has been received padi to be manufactured into rice for that person and the quantity of padi

received ; the quantity of padi produced by the holder of the licence and received into the factory ; the total quantity of rice manufactured ; the quantity of rice manufactured in respect of each person. He is also required to issue proper receipts. The quantities of padi and rice handled at the factories and sold or purchased are to be measured by bag of 143 lb. and 180 lb. gross, respectively. A holder of a licence is required to make half-yearly returns to the commissioner of the matters entered in the books. Power is given to enter and inspect a factory or any padi or rice therein and the books. Padi is not to be sold, purchased or received for the manufacture of rice except at a price calculated on a bag of 143 lb. gross.

Opticians.—Ordinance No. 27 makes provision for the registration of opticians, to regulate the practice of sight-testing and for purposes incidental thereto. The main principle of the Ordinance is the registration of opticians after the Medical Board is satisfied that they have attained a certain standard of knowledge in that work. The Ordinance enables control to be established not only of opticians who become registered, but also of those who practise illegally. Provision is also made for a certain section of the community—the poor—to be able to buy spectacles and lenses on the premises of chemists and druggists and wholesale dealers.

Copra Products (Sale and Manufacture).—Ordinance No. 32 makes provision for the regulation of the sale of copra and the manufacture of certain products from the kernel of the coconut. The object of this Ordinance is to give protection to the local industry in a manner similar to what was done in Jamaica in 1931, and Trinidad in 1932. Representations were made to Government that owing to the low prices ruling for coconuts and copra there was grave danger of the industry being ruined. The protection afforded to the industry by the Ordinance has been effected by increasing the customs duties on imported edible oils of all kinds, except mustard oil and olive oil, from 13 c. to 60 c. preferential tariff and the general tariff from 36 c. to $1.20. With the existing surtax the rates will be 78 c. preferential and $1.56 general tariff. Copra is subject to a specific import duty of $2 per 100 lb. preferential and $4 general tariff.

Cinematograph (British Films).—The object of Ordinance No. 42 is to secure the exhibition of a certain proportion of British films, and for the purposes connected therewith. The Ordinance carries out the policy which has been adopted in the United Kingdom and in most of the Dominions and Colonies.

XII. WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, C.B.E., K.C., *Speaker of The House of Assembly.*]

Acts passed—24.

1932.

Tariff.—C. 29 ratifies the Ottawa Agreements of 1932.

Cigarette Tax.—C. 30 imposes an inland tax of 6*d.* per hundred cigarettes. The tax is payable, upon entry or taking out of bond, by the importer of such goods.

1933.

Liquor Licences.—C. 1 makes provision for the granting of a licence to permit restaurants to "sell, expose for sale or otherwise dispose of any intoxicating liquor." The cost of a restaurant licence is £50.

Equitable Estates.—C. 2 empowers the Provost Marshal executing a writ of *fieri facias* to levy on and sell any equity of redemption or other equitable estate in real property. The operation of the Act is retrospective to April 1, 1926.

Venereal Disease.—C. 5 provides for the medical treatment of foreign seamen in respect of any venereal disease.

Expiring Laws.—C. 6 continues in force for another year (to 1934) the following important Acts: the Imperial Institute Act, the Inter-Insular Mails Act, the West Indies Conference Contribution Act, the Out Islands Electricity Act, 1930, the New Providence Birds Protection Act, 1930, the Harbour Dues Act, 1930, and the Tariff Amendment Act, 1932. The last of these is the Act which ratifies the Ottawa Agreements.

Shop Licences.—C. 8 provides for the licensing of shops. The fee for a licence is five shillings, but any person who has kept a shop continuously since January 1, 1932, is entitled to a licence as of right without the payment of any fee therefor. The penalty for operating a shop without a licence is £25 or imprisonment for 3 months.

Real Estate Charges.—C. 9 places the charge of payment of all sums due on mortgages, equitable charge or otherwise (including lien for unpaid purchase money) upon the heir or devisee of such real estate unless a contrary intention is signified. It reproduces the Imperial Act 17 & 18 Vict., c. 113 (Locke King's Act) as amended by subsequent Acts.

Motor Cars.—The Visitors Motor Car Registration Act, c. 10, permits the Treasurer to grant licences *pro rata* for any period not exceeding six months to any visitor to the Colony in respect of any passenger car and as defined by the Motor Car Act.

Harbour Dues.—C. 13 brings the Harbour Dues Act, 1930, into conformity with the Agreement of December 20, 1932, made between the Munson Steamship Line and the Bahamas Government. This Agreement replaces the one made in 1922 between the same Parties.

Post Office.—C. 14 enables the Postmaster to pay sums not exceeding £10 from the savings bank belonging to intestate depositors to such persons as may appear to him entitled thereto without consulting the Attorney-General. The Act also authorizes the Governor in Council to reduce the rate of interest payable on savings-bank deposits from 3 per cent. as he may determine.

Births and Deaths Registration.—C. 15 authorizes the Governor in Council to fix the fee payable to assistant registrars for the registration of a birth or death by him. Such fee shall not exceed the sum of three shillings for each registration.

Race-course Betting.—C. 16 reduces the cost of a licence to operate a totalizator on race-courses by returning to the licensee such proportion of moneys deducted from the moneys staked as the Governor in Council may determine.

Public Officers' Leave.—C. 17 enables the Secretary of State to appoint the time when the Governor may go on leave.

2. BARBADOS.

Ordinances passed—51.

Food and Drugs.—Act No. 6, Food and Drugs (Adulteration), places restrictions on mixing food and drugs with other ingredients, prohibits the sale of articles of food and drugs which are not of the nature, substance or quality demanded, and sets out the conditions to be observed in dealings in margarine, margarine-cheese and milk-blended butter. Restrictions are also placed on the importation of agricultural and other produce. Special provisions as to milk are contained in the Second Schedule to the Act.

Public Health.—By No. 15 the keeping of swine is prohibited in certain areas unless a licence has been obtained from the Commissioners of Health.

Reparation Payments.—No. 19 authorizes the Governor-in-Executive Committee to invest a sum of money in respect of reparation payments, the interest therefrom to be utilized in the payment of war pensions.

Highway Traffic.—No. 27 consolidates and amends the Acts relating to locomotives on highways. " Locomotive " is defined as any vehicle operated or propelled by any form of mechanical power. The Act provides for the registration and licensing of locomotives, the licensing of drivers, the conditions of user of highways and the conduct of drivers thereon. Penalties are provided for offences under the Act, and the Governor-in-Executive Committee is given power to make regulations.

3. JAMAICA.

[It is hoped to publish this Summary in the next *Review*.]

4. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by* Hon. H. W. Steele, *Acting Attorney-General*.]

Seventeen Ordinances were passed during the year 1933, of which the most important were the following:

Motor Vehicles Licensing.—Ordinance No. 3 provides special legislation with respect to the licensing of motor vehicles and includes *inter alia* provision for a certificate of fitness to be produced before a licence may be issued and special provision is made regarding a licence duty on a vehicle brought into the Colony for temporary use. The Ordinance fixes liability on both owner and driver for the use of a vehicle without the prescribed licence.

Unfermented Cocoa.—Ordinance No. 6 prohibits the export of unfermented cocoa which has been defined in the body of the Ordinance, and provides the necessary machinery for enforcing such prohibition. The Ordinance also provides for the appointment of one or more Inspectors and a Board of Appeal to which reference may be made by any person aggrieved by any decision or action of an Inspector, and further for the appointment of an Advisory Board for advising Government as to the subsidiary legislation necessary for the enforcement of the provisions of the Ordinance.

Sale of Produce.—Ordinance No. 9 reproduces with amendments various enactments dealing with the sale of agricultural products. The Ordinance provides a definition of " licensable produce " and gives the Governor in Council power to include in this definition such other articles of produce as may from time to time be found necessary. Powers of entry into the premises of any licensed dealer, inspection and arrest are also provided.

District Boards.—Ordinance No. 10 consolidates and amends various enactments relating to the district boards of the Colony and includes certain new principles affecting duration of a board and ensuring that elected and nominated members of the board possess the requisite qualification for inclusion in the register of voters and for membership on the district boards. The property qualification required of voters is now similar to that required for voters under the Legislative Council (Elected Members) Ordinance.

Trade Unions.—Ordinance No. 13 provides for the formation, registration, rights, powers and control of trade unions and also provides for a measure of protection in order to prevent the exploitation of illiterate workmen and simple-minded people.

Land Settlement.—Ordinance No. 17 consolidates existing legislation relating to land settlement and also sets up machinery for carrying out land settlements in areas specified and recommended to Government from time to time by a Land Settlement Committee, the formation of which has been provided by the Ordinance.

(ii) Saint Lucia.

[*Contributed by* J. E. M. Salmon, Esq.]

Ordinances passed—33.

Anglican Church Establishment.—No. 16 amends No. 30 of the 1916 Revision by substituting the " Bishop of the Windward Islands " for the " Bishop of Barbados."

Agriculture.—No. 1 amends the Fruit (Exportation) Amendment Ordinance No. 1 of 1933 with respect to the inspection, packing and shipping of fruit to ensure that only fruit fit for export should be exported from the Colony. No. 17 amends the principal Fruit Exportation Ordinance No. 13 of 1930 by the substitution of a new interpretation clause.

Board of Agriculture.—No. 9, as amended by No. 27, provides for the appointment of an advisory and consultative Board, whose duty is to advise upon all questions connected with the agricultural interests of the Colony referred to it by the Governor, the Administrator or the Agricultural Superintendent. The Board may also make recommendations without previous reference.

Arbitration.—No. 7, Arbitration Clauses (Protocol), gives effect to a Protocol on Arbitration Clauses signed on behalf of His Majesty at a meeting of the Assembly of the League of Nations held on September 24, 1923. No. 8 amends the Arbitration (Foreign Awards) Ordinance No. 10 of 1931 by substituting July 28, 1924, as the date of the commencement of the Ordinance.

Marriage.—No. 15, Civil Code (Marriage Amendment), as amended by No. 33, replaces Art. 96 of the Civil Code, 1879, which provides for the issue of marriage licences by the Governor.

Designs.—No. 32, Commercial Code (Patents, Designs and Trade Marks) Amendment, amends No. 4 of 1930 by providing that the representations of the design to accompany an application for the registration of a design locally need not be certified.

Education.—No. 24, Scholarship Amendment, amends No. 1 of 1918 by requiring a candidate for the island scholarship to pass the Cambridge University School Certificate examination and provides further that the scholarship is to be awarded on the results of the London Matriculation Examination to the competitor passing in the First Division and reported by the examiners to have the best claim to the award.

Loans.—No. 11 authorizes a loan not exceeding £10,000 to repay the balance due on St. Lucia Government 4 per cent. stock, 1919-1924. No. 29, Castries Electricity Loan, authorizes a loan from public revenue to the Castries Town Board to supply the town of Castries with electricity.

Medical.—No. 10 amends the Medical Registration Ordinance No. 72, 1916 Revision, in respect of the procedure to be adopted and the examination to be passed by an applicant for a certificate of midwifery.

Pensions.—No. 21 regulates pensions and other allowances to head teachers.

Police.—No. 30 makes provision for a Police Fines Fund controlled by the Governor and distributable subject to his approval.

Public Inquiries.—No. 6 amends No. 5 of the 1916 Revision by enabling the person whose conduct is the subject of inquiry and any other person desiring to be so represented to be represented by counsel.

Revenue and Taxation.—No. 3, Stamp Duty Amendment, amends No. 123, 1916 Revision, by fixing the duty on a security which is collateral, auxiliary, additional, substituted or for further assurance at 6d. per £100 with a maximum duty of 10s. provided that the primary security is shown to be duly stamped with duty at the rate of 1s. per £25 or part thereof.

No. 4, Rural House Tax Amendment, amends No. 121, 1916 Revision, and limits the priority of taxes payable for 1933 and after to one year prior to the sale.

No. 13, Official Emoluments Levy, imposes a graduated levy on the emoluments of public officers from £50 and upwards. The Ordinance was to be in force for one year only unless continued. It has, however, been continued by No. 2 of 1934 during the year 1935.

No. 14, Income Tax Amendment, which amends No. 6 of 1924, increases by 12½ per cent. the rates of tax on assessments for the 1930 assessment year, excepting, however, the levy on the emoluments from public funds of government officials, ministers of religion and teachers.

No. 18, Savings Bank Amendment, amends No. 122, 1916 Revision, with respect to the limit of the amount of deposits on which interest is payable.

No. 23, Customs Duties Amendment, as amended by No. 26 of 1933, replaces the first Schedule of customs duties, as well as the second Schedule (table of exemptions from duty), to No. 6 of 1926.

Timber Protection.—No. 20 amends No. 22 of 1918 by substituting the Commissioner of Crown Lands as the authority to have control over timber cutting in the Colony.

Towns and Villages.—No. 6 amends the Castries Cemetery Ordinance No. 133, 1916 Revision, by authorizing the making of by-laws by the Castries Town Board for the Cemetery.

No. 12, Castries Town Board Amendment, amends No. 129, 1916 Revision, as amended by No. 9 of 1920 and limits the tax priority for taxes due for the year 1933 and subsequently to taxes due for one year preceding the sale of the property. It also makes provision as to the proceedings preliminary to making up the voters' list, the making up and publishing of the voters' list, the annual election and the voting at elections.

No. 2, Towns and Villages (Management) Amendment, amends No. 134, 1916 Revision, by limiting the tax priority for taxes due for 1933 and subsequently to taxes due for the year preceding the sale of the property.

No. 25 provides for the supply of electric light and energy to the town of Castries or other specified area.

Trade Unions.—No. 26 regulates the formation, duties, powers, rights and registration of trade unions. It has been adapted from Imperial legislation.

(iii) St. Vincent.

[*Contributed by the* Hon. C. C. Ross, *Attorney-General.*]

Of the thirty-two Ordinances which passed into law in 1933, the following are the most important, but there is little of general interest:

Sea Island Cotton.—Ordinances Nos. 1 and 27 provide for an increase of export duty in order to provide money to subscribe to the funds of the West Indian Cotton Growers Association.

Importation of Animals.—Ordinances Nos. 2 and 23 are aimed at preventing the importation of diseased animals.

Customs and Export Duties.—Ordinances Nos. 11 and 12 vary extensively the existing duties.

Fire Brigade.—Ordinance No. 21 establishes a fire brigade in Kingstown under the orders of the Chief of Police.

Trade Unions.—Ordinance No. 22 authorizes the establishment of trade unions and provides for their registration and conduct.

Teachers' Pensions.—Ordinance No. 3 provides for the payment of pensions to head teachers of government or denominational schools.

Cotton Seed.—Ordinance No. 26 allows the Agricultural Officer to approve and supervise the planting of cotton of certain qualities.

5. TRINIDAD AND TOBAGO.

[*Contributed by* B. W. Celestain, Esq., *Chief Clerk.*]

The following Ordinances were passed during the year 1933:

Workmen's Compensation.—Ordinance No. 1 amends the definition of "employer" so as to include the Government of the Colony and that of "workman" by adding a paragraph whereby persons in the civil employ of the Crown other than in the service of the Colony are excluded from such definition. The Schedule has also been amended in order to remove a disability formerly suffered by left-handed workmen.

Registration of Deeds of Gift and Settlements.—Ordinance No. 3 repeals and re-enacts in an amended form the former Ordinance (No. 15 of 1931) which provided for the due collection of estate duty on deeds of gift and settlements, and dealt with property real and personal. The present Ordinance is restricted to real property only. Registration to pass title must be effected within twelve months. Such deeds may be subsequently submitted for registration on payment of a fee, increased five-fold, and

liability to a penalty not exceeding £50. This supersedes the former provision which rendered such deeds void if not registered within 3 months.

Bills of Exchange.—Ordinance No. 4 follows verbatim the English Bills of Exchange (1882) Amendment Act, 1932, and applies ss. 76 to 82 of the principal Ordinance, c. 184, relating to crossed cheques, to bankers' drafts in the same way as cheques.

Passports.—Ordinance No. 7 imposes a penalty not exceeding £100 or imprisonment not exceeding six months for the offence of falsely certifying the facts contained in a declaration made by an applicant for a passport or permit.

Young Persons (Employment).—Ordinance No. 8 restricts the employment in industrial undertakings of children under the age of 14 years and prohibits with certain exceptions the employment in industry at night of persons under the age of 18 years.

Food and Drugs.—Ordinance No. 10 by the amendment of s. 2 of the principal Ordinance (c. 107) places the responsibility of a person requiring the fat of swine of being more explicit in his demand by the use of the expression "hogs' lard" instead of "lard."

Copra Products (Control).—Ordinance No. 11 removes laundry soap from the scope of the principal Ordinance (No. 1 of 1932) in consequence of an agreement between the local and principal British manufacturers, whereby a quota of the combined sales in the Colony of such manufacturers is to be reserved to the local manufacturer.

Summary Conviction Offences (Procedure).—Ordinance No. 15 provides that a constable executing a warrant for an unpaid fine, instead of releasing a person arrested in pursuance thereof on payment to him of the amount, as formerly required by s. 85 of c. 24, must take him before the clerk of the court, if the arrest was effected in the magisterial district of issue, and, if otherwise, convey him to the Royal Gaol.

Agricultural Industry Relief.—Ordinance No. 16 authorizes advances to owners of cultivations destroyed or badly damaged by the hurricane of June 27, 1933, to enable them to re-establish their cultivations.

Constabulary.—Ordinance No. 17 makes more comprehensive provisions in regard to "lost property" delivered to the constabulary by the finder.

Sale of Ammunition.—Ordinance No. 18 by redefining the expression "ammunition" limits its application to rifles and pistols and thus removes restrictions previously imposed with regard to smooth-bored guns, which experience showed to have caused hardship and inconvenience.

Interpretation.—Ordinance No. 19 repeals and re-enacts in greater and fuller detail the former Ordinance, c. 2.

Patents, Designs and Trade Marks.—Ordinance No. 20 removes the necessity for furnishing two certified representations of a design in respect of which registration is sought, in view of the fact that a certified representation of the design is attached to the certificate of the Comptroller-General which has to be supplied.

Boxing Control.—Ordinance No. 21 enacts provisions for regulating the holding of boxing contests and provides for the establishment of a Trinidad Boxing Board of Control from whom it is necessary to secure a permit in writing authorizing the holding of any boxing contest, whether for prizes or otherwise.

Petroleum (Excise).—Ordinance No. 22 provides the usual and proper

machinery for the recovery of duty in arrears and imposes penalties for the unlawful manufacture or fraudulent evasion of duty on petroleum spirit and petroleum oil.

Rural Pedlars.—Ordinance No. 26 repeals and substitutes other provisions for those of the Rural Hucksters Ordinance, c. 270, which, except for minor amendments, had been in force since 1853.

Education.—Ordinance No. 28 repeals and re-enacts, with amendments, the Education Ordinance, c. 127, which was defective in several respects. The provisions relating to Colonial scholarships are made more elastic.

Pipe-lines.—Ordinance No. 29 repeals the Pipe-lines Ordinance, c. 146, and re-enacts with necessary amendments the former provisions and substitutes new measures for simplifying the procedure for obtaining permits to lay pipe-lines. The former sections relating to common carriers have been omitted.

Spirits and Spirit Compounds.—Ordinance No. 30 consolidates the provisions of c. 198 and of the various amending Ordinances. Wider powers are given and heavier penalties imposed in connexion with the illicit distillation of rum.

Liquor Licences.—Ordinance No. 31 repeals and re-enacts the former Ordinance, c. 199, with certain modifications and additions. Heavier penalties are imposed in certain cases. An occasional licence fee has to be paid by an hotel licensee who conducts entertainments after closing hours. Consumption of liquor on board ship in the harbour is legalized and matter proper to other Ordinances has been transferred thereto and *vice versa.*

Oil and Water Board.—Ordinance No. 33 removes an ambiguity which existed as to whether pollution of land caused by the refining of oil, as distinct from the mining of oil, came within the scope of the Ordinance.

Rent Restriction.—Ordinance No. 34 re-enacts with modifications the Rent Restriction Ordinance, c. 293, which automatically expired on December 31, 1925. It controls land let for the purpose of erecting a dwelling-house thereon and dwellings where the standard rent does not exceed £37 10s. per annum or $15 per month.

Wild Animals and Birds (Protection).—Ordinance No. 35 affords better protection to the fauna of the Colony and repeals the former Ordinance, c. 276.

Motor Vehicles Insurance (Third-party Risks).—Ordinance No. 39 makes provision for compulsory insurance in respect of death or bodily injury to third parties caused by or arising out of the use of motor vehicles on public roads, as recommended by the Motor Traffic Committee. It follows the provisions of Part II of the Road Traffic Act, 1930, and the Third Parties (Rights against Insurers) Act, 1930, now in force in England.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* H. Ralph Hone, Esq., M.C., K.C., LL.B., *Attorney-General.*]

Ordinances passed—6.

Commissions of Inquiry.—This amending Ordinance (No. 1) makes it clear that any person whose conduct is the subject of any inquiry under the principal Ordinance is entitled as of right to be represented by counsel

while any other person may be so represented with leave of the Commissioners.

Administration of Estates.—Ordinance No. 2 follows almost verbatim the provisions of the corresponding English Act (15 & 16 Geo. V, c. 23) and its enactment may be regarded to some extent as an experiment inasmuch as it is one of the first examples of the adoption in the Colonies of the new law of property which came into force in England at the beginning of 1926. The Administration of Estates Act is perhaps the one that can be most easily separated from the general plan of the Birkenhead Acts and adopted for enactment by itself in a Colony which continues to cling to the earlier English law of property in every other matter. Nevertheless in adopting the Act for local enactment some considerable care had to be exercised in translating terms such as " entailed interest," " equitable interest " and " charge by way of legal mortgage " which in the " new " law have special meanings. While, on the other hand, it is to be remarked that, confined as it is to the bounds of the Act on which it is modelled, the new Ordinance permits the tiresome double possibilities rule, the perpetuities rule and the rule in Shelley's case and old enemies of a like nature to continue to flourish without modification or *coup de grâce*. Indeed it is by no means certain that the difficulties attendant upon the engraftment of new ideas upon the old main structure have been successfully overcome and it remains to be seen whether the courts will be able satisfactorily to interpret the Ordinance, but as a pioneering experiment it merits worthy mention.

Minimum Wage.—Ordinance No. 3 makes provision for the creation of minimum-wage fixing machinery in conformity with the principles agreed upon in the International Convention of 1928.

Race-course Betting.—Ordinance No. 5 legalizes the use of the totalizator on race-courses used for horses or greyhounds.

2. CYPRUS.

[*Contributed by* the Hon. H. W. B. Blackall, K.C., *Attorney-General.*]

During the year 1933 forty-six laws were enacted, of which the most important were the following :

Landing and Shipping Charges.—Law No. 1 repeals the Agents' (Landing and Shipping) Charges Law, 1923, and empowers the Governor in Council to fix the rates for landing and shipping charges and porterage. It provides that any dispute arising in regard to landing charges, shipping charges or porterage shall be referred to the Collector of Customs, with a right of appeal to the Comptroller of Customs and Inland Revenue, whose decision thereon shall be final and conclusive.

Bulb Horns and Whistles.—Law No. 6 prohibits the use of bulb horns which emit a discordant sound and any other unnecessarily noisy appliances used by persons riding or driving any bicycle or any vehicle other than a motor-car or motor-cycle. Pedestrians in Cyprus usually walk in the middle of the street, there being few footpaths, and the indiscriminate use of horns by horse-drawn as well as motor vehicles makes it difficult for foot passengers to distinguish the approach of the fast-moving motor-car from that of the slow-moving hackney-carriage.

Clubs.—Law No. 10 amends the Registration of Clubs Law, 1930, by giving power to the Registrar to refuse registration of any club formed for a seditious or otherwise unlawful purpose, and it vests the power to

strike a club off the register in the Registrar in place of a magisterial court.

Boy Scouts Association.—Law No. 12 makes provision for the more assured exercise of the powers, and for the furtherance and protection of the purposes, of the Boy Scouts Association in Cyprus and prevents the establishment of unauthorized Boy Scouts Associations. It restricts the wearing of badges and other Scout emblems to the members of the recognized groups of Scouts.

Agricultural Produce.—Law No. 14 provides for the inspection and grading of agricultural produce when intended for export to any country declared by the Governor in Council to be a country to which the law shall apply.

Elementary Education.—Law No. 18 consolidates and amends the laws relating to elementary education and compulsory education. It introduces into Cyprus state control of elementary education and makes the Governor the central authority for all matters relating thereto and charges him with the performance and control of all powers and duties connected therewith, with power, however, to delegate to local bodies such powers as he may from time to time think fit. The power hitherto enjoyed by local bodies of formulating school estimates and assessing the amount required for general maintenance has been retained.

Advocates.—Law No. 20 repeals the previous laws on the subject and provides that no person shall be enrolled as an advocate after December 31, 1936, unless he is a barrister or solicitor of the United Kingdom and that all persons enrolled after the enactment of this law shall have a knowledge of English. It is the policy of the Government of Cyprus to replace as far as possible the antique Ottoman law by legislation based upon the principles of English law, and it was therefore an anomaly that legal degrees obtained in countries, some of whom have systems of jurisprudence far removed from British principles of justice, should be deemed a qualification for practising as an advocate in the Colony. In order, however, that students who had already entered upon courses of legal study recognized under the repealed laws should not be penalized, a time limit (up to December 31, 1936) is fixed which should enable them to be enrolled upon completion of their studies, provided they pass an examination in English.

Salt.—Law No. 24 vests the property and the control of all salt naturally formed within the Colony in the Government, and prohibits the collection and manufacture of salt in the Island except with the permission of the Comptroller of Customs and Inland Revenue. It provides that any means of conveyance made use of in the collection, taking, concealment or removal of any salt in respect of which an offence is committed shall be forfeited.

Telegraphs.—Law No. 29 brings up to date in a comprehensive form the law relating to telegraphs and telephones. It makes provision for the issue of licences to persons or companies desirous of establishing telegraphic or telephonic communications and gives power to the Governor in Council to make regulations for their proper working. It empowers the Governor, in the event of an emergency or in the public interest, to take over any telegraph line and to prevent the transmission of telegrams and to compel the disclosure of the contents of any telegram. The powers of authorized persons and companies to place telegraph poles in streets and immoveable property are clearly defined, and provision is made for the

payment of compensation where damage is done. It secures the secrecy of telegraphic matter save where the public interest otherwise requires and provides that transcripts of telegrams shall be receivable in evidence in the courts of law.

Firearms.—Law No. 31 repeals the previous laws and absolutely prohibits the importation of rifles, air-rifles, air-guns and air-pistols of a dangerous type, and makes provision for the prohibition of importation of revolvers and pistols except under a special permit from the Governor. It provides that no person shall keep a gun unless he obtains, in addition to a certificate of registration, a yearly licence, and that any gun for which no such licence has been obtained shall be deposited with the police for a period of one year, after which, if still on deposit, it may be destroyed without compensation. Persons convicted of certain offences are incapacitated from possessing, carrying or using a firearm. Local commandants of police are given discretionary power to refuse to issue a certificate of registration in any case they think fit and to cancel any certificate already issued, so as to ensure that undesirable persons do not possess firearms. The Governor is empowered to prohibit the carrying or use of firearms in any specified area by all or any persons, whether licensed or not.

Criminal Code.—Law No. 35 enables the Government to deal effectively with the menace of Communism and with any other unlawful associations. It increases the penalty for being a member of an unlawful association from one year to two years' imprisonment and for being an office holder from one year to five years, and provides that any person attending any meeting or gathering of members of any unlawful association shall be deemed to be a member of such unlawful association until the contrary is proved. The penalty for advocating the objects of an unlawful association has been increased from two to five years' imprisonment. Possession of any literature or any other document whatsoever which advocates the doctrines or practices of any unlawful association has been made an offence punishable with imprisonment for two years. Additional powers of search, seizure and arrest without warrant are given to the police in connexion with unlawful gatherings and the possession of unlawful documents. The Governor in Council is empowered to declare unlawful any organization which has among its aims the promotion of a general strike, or disorder or sedition, and to prohibit its existence in the Colony.

Law No. 43 brings into the category of the more serious offences under the Criminal Code the action of those persons who spread propaganda on behalf of an unlawful association, and it makes it an offence : (*a*) to possess or circulate any document issued by or in the interests of an unlawful association ; (*b*) for an official to disclose confidential information which has come to his knowledge in the course of his duty or to abstract or take copies of documents passing through his hands ; (*c*) to publish ribald or grossly insulting writings against religion ; and (*d*) to allow a child or young girl to reside in or frequent a brothel.

Criminal Evidence and Procedure.—Law No. 37 is designed to remedy several defects in the law relating to the detection of crime and the detention and release of accused persons, and it also amplifies the powers of the Supreme Court in dealing with appeals from magisterial courts. It makes it clear that a person whom the police wish to interrogate is bound to attend at the police station and that to refuse to answer questions other than those of an incriminating nature is an offence. It

provides that a report by Government Analyst or the Government Bacteriologist will be admissible as evidence at preliminary investigations and dispenses with the attendance of such officers at assizes unless the prosecution, the defence or the court require their attendance. The courts are empowered to remand an accused person in police custody. It clarifies and enlarges the powers of the Supreme Court in its appellate capacity. Thus the Appeal Court when dealing with appeals from magisterial courts is empowered to dismiss an appeal, notwithstanding that it might be decided in the appellant's favour, if they are satisfied that no substantial injustice has been done.

Nursing Homes.—Law No. 42 provides for the registration of nursing homes and their inspection by the Senior Medical Officer on the lines of the Nursing Homes Registration Act, 1927.

3. MALTA.

[*Contributed by* C. J. Colombos, Esq., LL.D.]

Acts passed—43; Ordinances passed—11.

Commercial Laws.—Acts Nos. 14 and 29 bring further improvements to the reform of commercial laws initiated by the Maltese Parliament in 1926. The first of these Acts regulates the law of contract and provides that an agreement entered into by correspondence between parties one of whom is abroad "shall not be deemed to be binding if the acceptance does not reach the proposer within the period fixed by him or within the period ordinarily required for the exchange of the proposal and acceptance according to the nature of the contract and the usages of the trade generally." This Act further provides that an offer to the public through catalogues or similar forms of publicity is not binding except in regard to what is stated expressly therein, being equivalent to a simple offer. A display of goods constitutes a binding engagement if accompanied by the mention of price and all other conditions of sale.

The second Act covers legislation on the "Account Current," which is defined as "a contract whereby two persons covenant that their reciprocal remittances shall be entered in an account as items of debit and credit with an obligation for the payment of the balance by the party emerging as a debtor on the closing of the account." A creditor of one of the parties to the contract is empowered to obtain a garnishee order against his debtor and serve the same on the other party, such garnishee order becoming effective on the winding up of the account current.

Criminal Law.—Act No. 28 adds an important amendment to the existing legislation by providing that any person who "by words, gestures, designs, writings, whether printed or not, or by some other visible means publicly vilifies" the Roman Catholic religion, which is the religion of Malta, or offends against the same by vilifying persons professing such a religion or its ministers shall be punishable with imprisonment from one to six months. Any person committing any of these offences against any cult tolerated by Maltese laws shall also be punishable with imprisonment from one to three months. The Act, further, punishes persons impeding or disturbing the performance of religious functions, ceremonies or services of the Roman Catholic religion and of any other religion tolerated by law.

Food-stuffs (Control and Prevention of Inflation).—Act No. 33 gives the

Minister power to deal with attempts to force up the wholesale or retail price of food-stuffs and to appoint food inspectors to ensure their due quality and quotations. The Governor may also appoint a Food Control Board to advise the Minister in the exercise of the powers vested in him by the Act.

Aliens' Restriction.—Governor's Ordinance No. 2 enacts that no alien who is not in possession of a licence may practise any profession or hold any appointment (other than an appointment directly relating to trade and navigation), or manage or teach in any schools of Malta. The Governor is empowered to make a deportation order against any alien offending against the provisions of this Ordinance and also whenever he " deems it conducive to the public good."

Press Laws.—Ordinance No. 5 considerably amends the existing press law and enacts stringent regulations against the spreading of false news likely to alarm public opinion or disturb public peace. Editors of newspapers are required to make a deposit of £200 with the Malta Treasurer and to produce a certificate of good conduct from the Commissioner of Police.

Suspension of Constitution.—On November 2, 1933, the Governor issued an Ordinance (No. 4) assuming to himself all powers hitherto vested in the Ministers by invoking as a ground " that a grave emergency to the satisfaction of the Secretary of State had arisen and continued to exist within the Island."

XIV. MIDDLE EAST.

1. PALESTINE.

Fifty-three Ordinances were enacted by the High Commission, and in addition to these certain Orders in Council relating to Palestine were made. The Ordinances calling for special mention concern the following subjects :

Bills of Exchange.—Ordinance No. 10 reproduces the provisions of the English Bills of Exchange Amendment Act, 1932, thus made applicable in Palestine.

Co-operative Societies.—Ordinance No. 50 repeals the Co-operative Societies Ordinances 1920–33 and re-enacts and consolidates the law relating to co-operative societies.

Criminal Law.—The Unlawful Instigation Ordinance (No. 12) punishes persons who by words or signs instigate others not to pay or to defer payment of any liability notified by the High Commissioner in Council by a notice in the Gazette.

The Prevention of Crime Ordinance (No. 48) repeals the previous Ordinances of 1920, 1926 and 1929 and re-enacts them in a consolidated and amended form. In general the object of these Ordinances is to authorize the authorities to require security to be given when breaches of the peace or other disturbances of public tranquillity are thought to be likely to occur. The Ordinances further authorize the placing of certain suspected persons under police supervision. These powers are retained and strengthened in the consolidating Ordinance.

Both of these Ordinances were deemed to be of such urgent import-

ance as to require immediate promulgation without the usual delay of one month after first publication.[1]

Education.—Ordinance No. 1, amended by Ordinance No. 34, makes provision for the registration of schools and of teachers, for inspection of schools, for licensing of teachers in schools supported or assisted by public money, and for closing of schools improperly conducted. Local and municipal councils are to be local education authorities and are to have rating powers for educational purposes.

Employment of Females.—An attempt is made by Ordinance No. 33 to control the employment of young girls in menial service, a practice which in some districts has given rise to conditions suggestive of child slavery. The Ordinance renders unenforceable any contract whereby it was agreed (*a*) that any female under the age of 17 years should render any menial service to any person for any period exceeding one year and (*b*) that any payment should be given to any person other than the female in respect of menial services rendered by any female under the age of 17 years.

Immigration.—Ordinance No. 38 repeals the Immigration Ordinance of 1925 and the amending Ordinance of 1928 and consolidates with amendments the law relating to immigration. New regulations made under the Ordinance are published in the same *Gazette* (August 31, 1933).

Land Law.—Ordinance No. 25 makes important changes in the Ottoman Land Law as applicable in Palestine. The alterations are of too technical a nature to justify full statement, but the principal matters dealt with are (*a*) prescription as between co-heirs, (*b*) disposal of mahlul land, (*c*) exercise of rights of pre-emption, (*d*) effect of absence from Palestine upon the running of periods of prescription and (*e*) mortgages of leasehold property.

Landlord and Tenant.—The Landlords and Tenants (By-laws) Ordinance (No. 13) authorizes local authorities to make by-laws providing for the continuance of tenancy agreements and for the regulation of the relations between landlords and tenants consequent upon such extension.

Mining.—An important amendment of the Mining Ordinances, 1925–6, is made by Ordinance No. 21 with special reference to the sections dealing with quarries which were added to the principal Ordinance by the amending Ordinance of 1926.

Press Law.—Ordinance No. 3 repeals the Ottoman Press legislation and substitutes an elaborate code of Press law which contains many provisions regulating Press activity in Palestine. No newspaper is to be printed or published without a permit from the District Commissioner, before obtaining which declarations must be made by the proprietor and editor in the prescribed form and a bond executed to secure payment of any penalties imposed upon the newspaper (ss. 4, 5). Full provision is made by later sections for changes of proprietorship or editorship. The High Commissioner may by order suspend the publication of newspapers if the public peace is likely to be endangered (s. 19), and may in the like circumstances exclude from Palestine any newspaper published outside Palestine (s. 20). Two copies of all books printed in Palestine are to be delivered to the authorities and registered. No person is to keep or have in his possession a printing press without a permit from the District Com-

[1] Palestine Order in Council, 1922, Art. 17 (1) (*d*), as amended by Order in Council, 1923.

missioner, the permit being obtained after submission of an application and sworn declaration in the prescribed form.

Protection of Cultivators.—Ordinance No. 37 repeals the earlier Protection of Cultivators Ordinance, 1929, as amended in 1931, 1932 and 1933, and consolidates and amends the law upon the subject. The Ordinance of 1929 was fully dealt with in the review of legislation of that year.[1] The principles of that Ordinance are maintained and their application extended. "Statutory tenants," a term practically equivalent to cultivating tenants, are given security of tenure and can only be evicted in special circumstances as defined by s. 6, and notably if it appears that the tenant has been provided with a subsistence area or has other land sufficient to enable him to maintain his customary means of livelihood in an occupation with which he is familiar. Further provision is made for payment of compensation for improvements, and the Ordinance contains a general provision (s. 13) that the landlord shall not increase the rent of a holding (i.e. miri land occupied by a cultivating tenant) unless he shall have first obtained the sanction of the District Officer.

Public Bathing.—By the Public Bathing Places Ordinance (No. 19) areas may be declared public bathing places by order of the High Commissioner in Council, and as regards such areas regulations may be made by the District Commissioner regulating costume of bathers, sanitation, safety of life, deposit of litter, etc. The Ordinance operates only outside areas controlled by local authorities.

Taxation.—By Ordinance No. 31 the tax on immoveable property owned by corporations established by the Ottoman law of 22 Rabi-el Awal A.H.1331 is abolished. Five Customs Tariff Amendment Ordinances (Nos. 2, 5, 6, 18, 49) vary the rates of duty on various products and articles. The Ottoman Municipal Tax Law Validation Ordinance (No. 24) validates the collection of charges under an Ottoman law which had in practice been treated as still in force in Palestine, though according to strict law it did not come within the scope of the general validating clause in the Palestine Order in Council, 1922. The Citrus Fruit Advertisement Ordinance (No. 46) provides for the imposition of a fee upon citrus fruit exported for sale to defray the cost of advertising the fruit and Palestine fruit products. The Fish Tax (Abolition) Ordinance (No. 26) abolishes the tax of 20 per cent. on sale of fish and does this retroactively as from September 15, 1925. The tax had been abolished in 1920, but for a period of five years only.

Amending Legislation.—Most of the other Ordinances enacted make minor amendments in existing Ordinances and do not call for special mention. Among such may be remarked Ordinances No. 4 amending the Interpretation Ordinance, No. 7 amending the Plant Protection Ordinance, No. 8 amending the Intoxicating Liquors Ordinance, No. 9 amending the Patents and Designs Ordinance, No. 11 amending the Commissions of Enquiry Ordinance, No. 20 amending the Road Transport Ordinance, No. 28 amending the Advertisements Ordinance and No. 29 amending the Regulation of Trades and Industries Ordinance.

In addition to Ordinances enacted, mention should perhaps be made of two Bills of exceptional importance published during the year under review which will, when enacted, make drastic changes in the law. These are the Civil Procedure (Execution of Judgments) Bill published in the

[1] *Journ. Comp. Leg.*, Third Series, vol. xiii, pt. iii, pp. 165–6.

Official Gazette, April 6, 1933, and the Criminal Code Bill published in the *Gazette* of June 6, 1933.

Orders in Council.—The Palestine (Validation of Ordinances) Order in Council, 1932,[1] declares the validity of certain Ordinances promulgated by the High Commissioner as to which doubts have arisen concerning their prior publication.

The Palestine (Amendment) Order in Council, 1933, adds to the principal Order in Council of 1922 an important article (16*a*) declaring that the High Commissioner may convert " miri " land into " mulk "; this power was under Ottoman law vested in the Sultan.

The Copyright (United States of America) Order 1915 (Extension to Palestine) Order, 1933, applies the Order of 1915 to Palestine.

The Palestine (Defence) Order in Council, 1931, which gives exceptional powers to the High Commissioner for securing public safety and defence of Palestine in time of emergency, was published in the *Official Gazette* of October 30, 1933, together with the Regulations made thereunder by the High Commissioner. In the same number of the *Gazette* appears a Proclamation proclaiming the Order as in force.

UNITED STATES OF AMERICA.

Federal Legislation.

Bankruptcy.[2]—On March 3, 1933, Congress added a new Chapter VIII[3] to the Bankruptcy Act,[4] entitled " Provisions for the Relief of Debtors." The chapter contains three new forms of procedure: s. 74, " Compositions and Extensions," open to individuals and partnerships but not corporations; s. 75, " Agricultural Compositions and Extensions," open only to farmers; and s. 77, " Reorganization of Railroads engaged in Interstate Commerce." As the titles imply, these sections are designed to authorize and encourage settlements between debtors and creditors. The debtor is referred to throughout as a " debtor " and not a " bankrupt," and his estate may not be liquidated nor may he be adjudged a bankrupt except under certain circumstances in proceedings under s. 74.

The amendments can best be understood in the light of their history. They are the outgrowth of a nation-wide investigation of bankruptcy administration conducted in 1930 and in 1931 by the Department of Justice at the direction of President Hoover. After the close of the investigation a report was submitted to the President by the Solicitor-General recommending a thorough revision of the Bankruptcy Act, and a Bill embodying these recommendations was introduced early in 1932 by Senator Hastings (an identical Bill being introduced in the House). Its objects were: (1) to improve the administration of bankrupt estates; (2) to prevent the discharge of undeserving bankrupts; and (3) to facilitate and encourage settlements between honest debtors and their

[1] Off. Gaz. Pal., January 26, 1933.

[2] Abridged from articles by Mr. Lloyd K. Garrison in *American Bar Assoc. Journ.*, xix, No. 6.

[3] Contained in Public No. 420, 72nd Congress. (H.R. 14359.)

[4] The Act of July 1, 1898, as amended (28 U.S.C.A., Title XI).

creditors without the stigma of bankruptcy. It was this third portion of the Hastings Bill upon which Congress acted a year later, but it became law only after many changes, omissions and additions, some of them desirable and others unfortunate.

Compositions and Extensions.—An individual debtor who seeks a settlement may still proceed under the old s. 12, either by filing a voluntary bankruptcy petition (upon which adjudication follows) and later offering a composition, or in an involuntary proceeding either before or after adjudication. Or, he may proceed under the new section either by filing a voluntary petition stating that he is insolvent or unable to meet his debts as they mature and that he desires to effect a composition or an extension of time to meet his debts, or, in an involuntary proceeding, by filing an answer to the same effect. His advantages in proceeding under s. 74 rather than s. 12 are: (1) that he is not adjudged or designated a "bankrupt" unless confirmation of his proposal is denied, or unless he commenced or prolonged the proceeding for the purpose of delaying creditors; (2) that the referee may confirm the proposal, thus avoiding the serious delays occasioned by the old procedure under which only the judge may confirm—delays which have afforded minority creditors an excellent opportunity to obstruct the proceedings in the hope of being bought off; (3) that the debtor may offer, as an alternative to a composition, a proposal for an "extension" in the nature of a moratorium which, unlike a composition settlement of so much on the dollar in cash or notes, may affect secured as well as unsecured, and all types of contingent, claims; (4) that future rent claims, in both compositions and extensions, by a provision which may or may not be held applicable to the old composition section and to bankruptcy proceedings generally, are expressly made provable and therefore dischargeable.

The original Hastings Bill proposed to amend various sections of the Bankruptcy Act in order to make them harmonious with, and applicable to, the new Chapter VIII. The Bill as passed, however, omitted these amendments and substituted a clause in each of the new sections to the general effect that, consistently with the provisions of such sections, the provisions of the Bankruptcy Act should be applicable as though the debtor had been adjudicated when his petition or answer was filed. This device for fitting the old material into the new may give rise to certain difficulties which the courts, however, should be able to resolve and which are too technical to be dealt with here.

Agricultural Compositions and Extensions.—S. 75 was introduced in the Senate as an amendment to the House Bill and was not contained in the original Hastings Bill. While based on s. 74 it is open only to farmers, and it sets up a novel administrative machinery centring around "conciliation commissioners," who are to perform the duties of referees and also to act substantially as the debtor's attorney, but without charge. The only cost to the farmer is a $10 filing fee; the commissioner is paid a $10 fee per case, out of which he must pay all his expenses. Under certain conditions, however, not clearly defined, the commissioner may "supervise" the debtor's farming operations; and under certain other conditions, still less clearly defined, he may receive extra compensation for this work. A composition, as well as an extension, may affect secured creditors, but in what manner the statute does not explain.

Reorganization of Railroads engaged in Interstate Commerce.—The original Hastings Bill contained a section for the reorganization of in-

dustrial corporations. The Bill that passed the House included this section, but the Senate dropped it out. The House Bill also contained s. 77 above, modelled upon a previous Bill introduced by Senator Hastings and drafted by the Solicitor-General.

Briefly speaking, the object of the section is to empower the Interstate Commerce Commission to arrange and control through trustees or otherwise reorganization of the railroads within its scope.

The hope may be ventured that Congress will speedily extend the new process to other public utilities and to industrial corporations, and that it will not flinch from the more difficult and controversial task of strengthening the discharge provisions and revising the administrative machinery of bankruptcy in the light of the unchallenged facts made public by the Department of Justice.

Securities Act, 1933.[1]—The protection of investors against fraudulent securities has long preoccupied the legislative mind, which has produced, in the 48 American states, statutes designed to make it harder for the issuer and high-power salesmen to inveigle the public into transforming good money into stock of questionable value.

The new Act to which our readers' attention is drawn was based upon the English theory of requiring that the issuer of securities give specific information to the investor and then holding each person responsible for the statements individually liable for loss suffered by investors. The American Act, however, contains many important variations from the British statute. The Congress has not the wide powers of the British Government to control dealings in securities, so it must find a way to include the regulation within one of its constitutional powers. The Securities Act is based on the power of Congress to regulate communications and transportation in interstate commerce, and over the mails, and forbids the use of the means of communication or transportation in interstate commerce, or of the mails, in dealing with securities, unless the provisions of the Act have been complied with. Since, however, it will rarely happen that a corporation issuing securities can count on all transactions being within the state in which it has its domicile, the Act will cover practically all issues of securities which are not exempt by its terms. The agency charged with the enforcement of the Act is the Federal Trade Commission, which has had a long experience in the investigation of the affairs of business organizations, either through special investigations as an arm of the Congress or through the exercise of its duty to prevent unfair practices. The person who desires to issue securities must file a registration statement with the Commission, containing in considerable detail information as to capitalization and business organization, financial condition and earnings for the three preceding fiscal years. The statement must also give full information as to the purpose for which the security is being issued, the price at which it is to be offered to the public, all commissions or discounts to be paid to the underwriters and all other charges involved in the flotation. The names and addresses of the directors and of the chief officials, and of the partners if the issuer be a partnership, or of the individual who is making the issue on his own behalf, and the names and addresses of the underwriters must be given.

Publicity in regard to the bonuses and the large salaries paid to

[1] Abridged from article by Mr. Joseph P. Chamberlain in *American Bar Assoc. Journ.*, xix, No. 11.

officers will be secured by the requirement that the remuneration paid directors and officers must be stated and that where any officer or director is paid more than $25,000 a year he must be named, though apparently the amount paid each officer need not be given. Until this registration statement has been filed, and only so long as it is in effect as to a security, can any person use the means of interstate commerce or the mails to sell or offer to buy it or permit its transportation.

The personal responsibility of the officers of a corporation is assured by requiring that the statement be signed by the issuer itself, by its principal executive or financial or accounting officers, and a majority of its board of directors. A small registration fee based on the offering price of the security with a minimum of $25 must be paid. The registration statement shall not be effective to permit the issue or sale of securities for twenty days after it has been filed.

The information required to be filed is made available to the investor in two ways. Copies of the statement of registration are to be supplied by the Commission to any person who requests it, on payment of a small fee, and a prospectus must be prepared and circulated with the requests for subscriptions to the security, so that the information is brought directly to the attention of the prospective purchaser. The English Act makes no distinction between the prospectus and the declaration filed with the public authority. It is the prospectus which is filed and the prospectus which is distributed. The American statute does not require the prospectus to contain all of the documents which must be in the registration statement, but it must contain the essential information in respect to the financial condition, the business outlook, management and ownership of stock of the issuer, which are contained in the registration statement, except that the Commission may authorize the omission of any of these statements, or their consolidation. The Commission may also require the prospectus to contain any other information that it thinks " necessary or appropriate in the public interest or for the protection of investors." Thus, by its rules, the Commission may adapt the form and content of the prospectus for different kinds of securities to what it believes experience shows necessary.

The effective sanction to compel compliance with the Act on the part of the issuer, of directors, officers, experts and underwriters, is contained in Art. 11. That article gives to the purchaser of stock a right of action against any or all of such persons, if the registration statement " contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, unless it is proved that at the time of such acquisition he knew of such untruth or omission." It is the complete registration statement and not the prospectus upon which the suit is based. Even though the purchaser of the security may not have seen the registration statement, but only the prospectus, and may have relied only on the prospectus, he can nevertheless establish his right to sue on the certificate which he has never seen and upon which consequently he did not depend.

The draftsmen of the Act have taken into consideration the business fact that frequently a corporation is controlled either by individuals who are not themselves members of its board or its officers, or by another corporation. This control may go through a long series of different corporations till it is found in the hands of a few individuals who own the

stock of the corporation at the peak of the pyramid. Thus the directors and officers of a particular corporation, in making a security issue, may be acting under the direction of persons who practically control their decision. This situation was insisted upon at the hearings and was evidently very much in the minds of committee members. It found its final expression in s. 15 of the Act, strengthened by the requirement that there be included in the registration statement information as to the owners of 10 per cent. or more of the stock of the issuer. Under s. 15:

> Every person who, by or through stock ownership, agency or otherwise, or who, pursuant to or in connexion with an agreement or understanding with one or more other persons by or through stock ownership, agency or otherwise, controls any person liable under s. 11 or 12, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable.

Thus there is apparently an absolute liability without defence of all persons who control the issuer, since the issuer is so liable, while a person who controls any corporation concerned, except the issuer, would be bound by its action.

The draftsmen of the Act did not depend solely on the civil suits but also established severe criminal sanctions to compel observance of the Act. Any person who wilfully violates any of its provisions or the rules or regulations made under it, or who wilfully makes an untrue statement in the registration statement or omits to state a material fact required to be stated or necessary to make the statement therein not misleading, is subject to a fine of not more than $5,000 or not more than two years' imprisonment. Another important section of the Act sets up the crime of fraudulent interstate transactions, among which is a provision expressly aimed against publications giving tips on the market, ostensibly disinterestedly, but really as a means of advertising the sale of securities. Such communications must disclose the amount of consideration which has been received from an issuer, underwriter or dealer by the person who puts out the publications. If enforced, this provision will get rid of a source of much deceit of the public.

Currency and Banking.[1]—The most important changes in the currency laws are contained in Title III of Public No. 10 as amended by Public Resolution No. 10. S. 43 of that Act authorizes the President to put into effect specified methods of currency expansion and stabilization when he finds, upon investigation, that foreign commerce of the United States is adversely affected by reason of depreciation of foreign currencies, or that action under the section " is necessary in order to regulate and maintain the parity of currency issues of the United States," or that an economic emergency requires an expansion of credit, or that expansion of credit is necessary to secure by international agreement stabilization at proper levels of the currencies of various governments.

The President may thereafter arrange for agreement with the Federal Reserve banks for purchase of obligations of the United States. If, however, such agreements with the banks cannot be secured, or if the open market and purchase operations prove to be inadequate to meet the purposes of the section, or if additional measures are required in the judgment of the President to meet the purposes of the section, the President is authorized

[1] Abridged from article by Messrs. Boots, O'Brien, Wood and Purcell in *American Bar Assoc. Journ.*, xx, No. 1.

to direct the Secretary of the Treasury to issue United States notes and the President is further authorized to fix the gold content of the dollar.

The United States notes so issued may be used only for meeting maturing Federal obligations to repay money borrowed and for purchasing United States bonds or other interest-bearing obligations. The aggregate amount outstanding at any one time cannot exceed $3,000,000,000, and appropriations are provided for an annual retirement of 4 per cent. of the outstanding issue. The paragraph authorizing such notes makes them, as well as all other currencies of the United States, legal tender for public and private debts.

The paragraph relating to the gold dollar authorizes the President to fix the weight of the gold dollar, the weight of the silver dollar and the ratio of the silver dollar to the gold dollar, at the amounts his investigation shows are necessary to stabilize domestic prices or to protect our foreign commerce against the adverse effect of foreign currency depreciation. The President may provide for the unlimited coinage of gold and silver at the ratio so fixed. In the case of international agreement stabilizing the ratio of the value of gold to other currency issued by the United States and currency issued by other governments, the President is authorized to fix the weight of the gold dollar in accordance with the ratio agreed upon. In no event may the gold content of the dollar be reduced more than 50 per cent.

Public Resolution No. 10 " outlaws " the gold clause in contracts. It declares that provisions in public obligations (except currency) and private obligations which give or purport to give the obligee a right to require payment in gold, or in a particular kind of currency, or in an amount of money of the United States measured by a particular kind of currency, are against public policy, and that every obligation to pay money shall be discharged upon payment dollar for dollar in any coin or currency of the United States which, at the time of payment, is legal tender for public and private debts.

Two very important banking Acts were passed during the first session of the Seventy-third Congress, namely, Public No. 1, known as the " Emergency Banking Act," and Public No. 66, commonly referred to as the Glass-Steagall Act, but officially designated as the " Banking Act of 1933." The first of these Acts approves and confirms the actions and regulations of the President and the Secretary of the Treasury since March 4 relating to the general banking situation (s. 1) and extends the powers of the President under s. 5 (b) of the Trading with the Enemy Act with respect to transactions in foreign exchange, transfers of credit by banks and the movement of gold and silver during time of war or any other period of national emergency declared by the President (s. 2). The Secretary of the Treasury is also empowered (s. 3) to require the delivery to the Treasury of gold coin, bullion and certificates in exchange for other coin or currency whenever in his judgment such action is necessary to protect the currency, and for a failure to comply with any such requirement the offender is subject to a criminal penalty and a civil penalty equal to twice the value of the gold with respect to which the failure occurs. It is also provided (s. 4) that during such emergency period as the President may proclaim, member banks of the Federal Reserve System shall transact only such banking business as may be prescribed by the Secretary of the Treasury, with the approval of the President.

Title II of Public No. 1 provides for the appointment of conservators

for national banks and those in the District of Columbia operating under the supervision of the Comptroller of the Currency, whenever the Comptroller deems it necessary to conserve the assets of such banks for the benefit of depositors and other creditors.

Title III authorizes any national bank, with the approval of the Comptroller of the Currency and by a vote of its shareholders owning a majority of the stock, upon not less than five days' notice, to issue preferred stock in such amounts and with such par value as the Comptroller may approve (s. 301). The holders of such stock are not to be held individually responsible for debts of the bank or liable to assessment to restore impairments of capital and are to be entitled to cumulative dividends not to exceed 6 per cent. per annum.

One of the major purposes of Public No. 66 is to restrict the dangerous practices of the banks with respect to the making of security loans and the buying and selling of securities which, in recent years, have resulted in enormous losses through the use of their depositors' resources for speculative purposes. The Act seeks to prevent such practices in various ways, the chief one being to require member banks of the Federal Reserve System to divorce the so-called " security affiliates " controlled by them or by their offices or stockholders. Affiliation by member banks with any such organization engaged principally in the issuance, underwriting or distribution of securities is prohibited after one year from the date of enactment of the Act, and severe penalties are provided for the violation of this provision (s. 20). Provision is also made for the examination of all affiliates of member banks (ss. 5 and 28), for reports of condition of such affiliates (ss. 5 and 27), for the separation of the stock certificates of member banks and their affiliates, with certain exceptions, so that in the future the stock interest in both will not be represented by a single certificate, and for the unrestricted ownership, sale or transfer of member bank stock without its being conditioned on ownership, sale or transfer of stock in any other corporation except a member bank (ss. 5 and 18). The Act also imposes limitations on future member bank-affiliate relations, with certain exceptions, (1) by limiting the amount of loans or extensions of credit to the banks' affiliates and the extent of the banks' investment in their affiliates' securities to 10 per cent. of the capital stock and surplus of the bank in the case of any one affiliate, and 20 per cent. of such stock and surplus in the case of all such affiliates, and (2) by making certain requirements as to the market value of the collateral securing the loans (s. 13).

Federal Farm Credit.[1]—The Emergency Farm Mortgage Act, 1933, which comprises ss. 21 to 42, inclusive, of Public No. 10, 73rd Congress, was designed primarily to improve the credit facilities of the Federal land bank system and to make it possible for borrowers on farm real estate, either through the system or otherwise, to refinance their indebtedness on liberal terms.

S. 21 authorizes the Federal land banks to issue not exceeding $2,000,000,000 of farm-loan bonds, at a rate of interest of not more than 4 per cent., which shall be guaranteed as to interest by the United States.

These bonds may be used in three ways: first, to exchange for or purchase outstanding farm mortgages on the best terms possible; second, to make new loans on farm mortgages; third, after the expiration of one

[1] Abridged from article on Federal Farm Credit by Messrs. H. G. Wood and John O'Brien in *American Bar Assoc. Journ.*, xix, No. 11.

year, if in the judgment of the Farm Loan Commissioner the bonds are not required for the first two purposes, to refinance at lower interest any outstanding issues of Federal farm-loan bonds.

S. 22 authorizes the Federal land banks to buy, or to exchange bonds for, outstanding farm mortgages. The savings thus effected must be passed on to the farmer borrower. S. 23 authorizes the Federal land banks for five years to grant extensions to farm borrowers who are shown to be deserving. S. 24 reduces for a period of five years the interest rate on all outstanding and new loans made by the Federal land banks, through national farm-loan associations or agents, or purchased from joint-stock land banks, to 4½ per cent. per annum, and suspends the payment of principal during the same period in cases where the borrowers are not in default. S. 26 authorizes the Federal land banks to make direct loans on first mortgages to farmers in localities where national farm-loan associations have not been organized or where the farmers are unable to apply for loans because of the inability of the land banks to accept applications from existing associations. Interest on such direct loans is to be at a rate one-half of 1 per cent. higher than the rate on loans made through national farm-loan associations, but the rate is to be reduced when the borrower joins an association, which he must agree to do.

S. 30 directs the Reconstruction Finance Corporation to make $100,000,000 available to the Farm Loan Commissioner to be used for two years in making loans to joint-stock land banks to aid in their orderly liquidation. Such loans are to be made at a rate of interest not exceeding 4 per cent., and are to be secured by first or purchase-money mortgages on farm property, or such other collateral as may be available to the banks. The proceeds of the loans are to be devoted to making equitable settlements with bondholders, and no such loan is to be made until the bank agrees: (1) to reduce the interest rate to all its first-mortgage borrowers to 5 per cent. per annum; (2) not to proceed against any mortgagor for two years from the date of the enactment of the Act on account of default in interest or principal, nor to foreclose its mortgage during the same period except for abandonment of the mortgaged property or unless, in the opinion of the Commissioner, such foreclosure is necessary for other reasons.

S. 32 authorizes and directs the Reconstruction Finance Corporation to make $200,000 available to the Farm Loan Commissioner to be used in making direct loans to farmers upon first or second mortgages. The maximum loan to any one farmer is to be $5,000, and the interest is not to exceed 5 per cent. per annum. The proceeds of these loans are to be used: (1) to enable the farmer to refinance on better terms any secured or unsecured indebtedness; (2) to provide the farmer with working capital; (3) to enable the farmer to redeem or repurchase farm property lost by him through foreclosure between July 1, 1931, and the date of enactment of the Act (May 12, 1933) or thereafter.

S. 36 authorizes the Reconstruction Finance Corporation to make loans in an aggregate amount not exceeding $50,000,000 to drainage, levee, levee and drainage, irrigation, and similar districts, and to political subdivisions of states, which, prior to the date of enactment of the Act, have completed projects devoted chiefly to the improvement of land for agricultural purposes. Such loans are to be made for the purpose of enabling such districts or political subdivisions to reduce and refinance

their outstanding indebtedness incurred in connexion with projects which the corporation finds to be "economically sound."

The Farm Credit Act of 1933 (Public No. 75) supplements the authority conferred upon the Governor of the Farm Credit Administration by the Executive order of March 27 and s. 40 of Public No. 10, and outlines the direction which the granting of short-term agricultural credit by the Federal Government is to take.

The outstanding feature of this Act is that it provides for the financing of agricultural production through stock subscriptions by the Government in co-operative organizations of producers rather than through direct loans by the Government as heretofore.

Agricultural Marketing.[1]—The Agricultural Adjustment Act (Title I of Public No. 10, approved on May 12, 1933) is the most important farm relief measure since the Agricultural Marketing Act of 1929. It is substantially accurate to say that it differs from the Agricultural Marketing Act in that it is based upon the theory of prevention of the production and accumulation of undesirable surpluses of agricultural commodities rather than control, handling and marketing of such surpluses after they have been produced.

While primarily for agricultural relief, this measure is an important part of the programme for general economic recovery. Congress declares that its enactment is necessary because of an emergency caused by conditions which have affected transactions in agricultural commodities with a national public interest and have burdened and obstructed the normal currents of commerce in such commodities. The primary object of the measure is to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will re-establish prices to farmers at a level that will give agricultural commodities a purchasing power, with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities during the pre-war period 1909–14; except that in the case of tobacco the period is the post-war period 1919–29. This object is to be accomplished gradually, with due regard to current consumptive demand and to the protection of the interests of consumers so that they will not be called upon to bear a burden higher in proportion than they bore during the period indicated.

The administration of the Act is placed under the Secretary of Agriculture, to whom various devices are made available for accomplishing the declared purposes of the measure.

Part 1 provides a special plan for cotton. Part 2, s. 8, embodies plans of more general application which the Secretary is authorized to put into effect in order to effectuate the declared purposes of the legislation.

Paragraph (1) contains the grant of authority around which the remainder of the Act may be said to be written. It empowers the Secretary to make payments, called rental or benefit payments, to farmers who reduce their acreage, or their production for market, of "basic agricultural commodities." This paragraph also apparently contemplates the making of such payments to farmers under other circumstances, to be determined by the Secretary, upon that part of the production of any such commodity required for domestic consumption. Payments are to

[1] Abridged from article by Messrs. Chas. Boots and Allan H. Percy in *American Bar Assoc. Journ.*, xx, No. 2.

be in such amounts as the Secretary deems fair and reasonable. The Secretary will determine the amount of reduction in acreage or production to be brought about. His guide is the rather general one of the effectuation of the purposes of the Act. The basic agricultural commodities, for the purposes of the title, are wheat, cotton, field corn, hogs, rice, tobacco, and milk and its products.

Paragraph (3) gives the Secretary authority to license processors, associations of producers and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licences are to be subject to terms and conditions necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy of the Act and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

In order that the Treasury may be reimbursed for the expenses incident to the operation and administration of the Act, and " to obtain revenue for extraordinary expenses incurred by reason of the national economic emergency," a tax known as a processing tax is provided for. This tax is to go into effect with respect to the first domestic processing of any basic agricultural commodity at the beginning of the marketing year for the commodity following the determination and proclamation of the Secretary that rental or benefit payments are to be made with respect to such commodity. The tax is to terminate at the end of the marketing year current at the time the Secretary proclaims that payments are to be discontinued with respect to such commodity. The marketing year for each commodity is to be determined by the Secretary. The rule for the determination of the tax is involved. It is to be an amount equal to the difference between the " current average farm price " for the commodity and its " fair exchange value," which is the price which would give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the pre-war period 1909–14; except that in the case of tobacco the period is the post-war period 1919–29. The taxing provisions of the Act are to be administered by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury, and it is provided that the taxes shall be paid into the Treasury of the United States. Provisions of the revenue laws are made applicable by reference to facilitate administration of the taxing provisions.

Tennessee Valley.—Muscle Shoals legislation, actively before Congress for the last decade, and which on two occasions reached the White House, only to be met with a veto, was taken from the Congressional forum by the enactment of Public No. 17, 73rd Congress, the Tennessee Valley Authority Act of 1933.

Congress finally decided in favour of government management of the Muscle Shoals power development as against lease. The Tennessee Valley Authority, which will administer the Act, is a corporation with a board of directors appointed by the President and Senate, who can be removed from office only on concurrent resolution of the Senate and the House. They must be persons who believe in the feasibility and wisdom of the Act. The corporation is given the broad general powers usually accorded to government-controlled corporations and also authority to carry out the objectives of Congress. The power plants are to be

utilized for production of nitrogen for fertilizer with the subordinate object of furnishing nitrogen for military purposes, and also to generate electric power for sale.

Public attention has been principally focused on the authorization for the operation of the plant as a power project. The Authority is not to go into the business of distributing electricity to consumers, but it will generate power and may build or control transmission lines which it may lease. In the sale of electricity for distribution, states, counties, municipalities or other public or co-operative organizations of citizens or farmers are to be given preference, but surplus power may be disposed of to private companies and individuals. Where the power is sold to a private distributor, however, it must be disposed of to ultimate consumers at prices fixed by the board. Control over rates and service is reserved by permitting the board to void a contract in the event that any lessee grants discriminatory rates, rebate or other special concessions, and there must be a provision in the contract that power shall be sold and distributed to the ultimate consumer without discrimination between consumers of the same class.

The purpose of the Act is primarily to distribute surplus power particularly for the benefit of domestic and rural consumers, and the sale to industries shall be a secondary purpose, utilized principally to equalize the load factor and to secure a revenue which will permit domestic and rural use at the lowest possible rates.

Interstate Commerce.[1]—The Emergency Railroad Transportation Act, 1933 (Public No. 68, approved June 16, 1933), contains, in Title I, emergency legislation intended to bring about improvement in the financial condition of the railroads, and, in Title II, important amendments to the Interstate Commerce Act which are partly for the purpose of making certain provisions of that Act more effective in carrying out their original purposes and partly for the purpose of changing certain of the fundamental policies of that Act.

[1] The details of this legislation are of so intricate a character as to render a summary unintelligible. Our readers are referred to an article on the subject by Mr. Allan H. Percy in Vol. xx of the *American Bar Assoc. Journ.* (July 1934).

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